

GAO

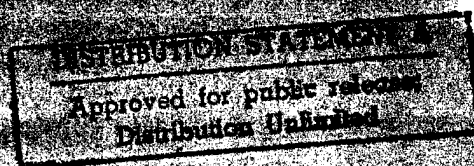
June 1996

ACQUISITION REFORM

Regulatory Implementation of the Federal Acquisition Streamlining Act of 1994



19960717 004



DISCLAIMER NOTICE



THIS DOCUMENT IS BEST QUALITY AVAILABLE. THE COPY FURNISHED TO DTIC CONTAINED A SIGNIFICANT NUMBER OF PAGES WHICH DO NOT REPRODUCE LEGIBLY.

National Security and
International Affairs Division

B-259740

June 28, 1996

Congressional Committees

The Federal Acquisition Streamlining Act of 1994 (FASA), enacted on October 13, 1994, as Public Law 103-355, contained more than 200 sections changing the laws that govern how agencies acquire almost \$200 billion of goods and services annually. The act established deadlines for publishing proposed and final implementing regulations, prescribed a minimum 60-day period for public review and comment on proposed regulations, and required regulation drafters to make every effort to ensure that the regulations are concise and understandable.

This report responds to section 10003(a) of the act, which required us to evaluate and report on compliance with these requirements. Our objectives were to (1) determine whether all regulations necessary to implement the act were published in accordance with the act's requirements and (2) describe the efforts made to make the regulations concise and understandable.

Background

FASA directed that proposed regulations be published not later than 210 days after enactment, or by May 11, 1995, and be available for public review and comment for not less than 60 days. FASA also required final regulations to be published not later than 330 days after enactment, or by September 8, 1995. It also said that every effort practicable should be made to ensure that the regulations are concise and easily understandable by potential offerors and government officials.

Implementing FASA has been a complex process, involving revisions to numerous regulations, principally the Federal Acquisition Regulation (FAR), which applies to all executive agencies.¹ Revisions also were needed in the Defense Federal Acquisition Regulation Supplement, other agencies' FAR supplements, and miscellaneous other regulations, such as our Bid Protest Regulations. In addition, FASA amendments resulted in the issuance of nonregulatory guidance, such as Department of Defense directives and instructions.

¹The FAR is the primary regulation for use by all executive agencies in their acquisition of supplies and services with appropriated funds. Authority for revising the FAR is shared by the three executive agencies represented on the Federal Acquisition Regulatory Council by the Secretary of Defense, the Administrator of General Services, and the Administrator of National Aeronautics and Space or their designees. The Office of Federal Procurement Policy within the Office of Management and Budget is responsible for providing overall leadership and for ensuring action in cases where the three agencies cannot agree or fail to issue FAR revisions in a timely manner.

DISTRIBUTION STATEMENT A

Approved for public release;
Distribution Unlimited

FASA specified that some provisions were to apply to acquisitions upon enactment, others were to apply on the date specified in final regulations, but all provisions were to apply no later than October 1, 1995.

The Federal Acquisition Regulatory Council established a special project to draft the necessary revisions to the FAR. In place of the traditional defense and civilian regulatory councils and their committees,² the special project had a project manager from the Department of Defense, a deputy from the General Services Administration, and 11 interagency drafting teams. More than 100 people staffed the special project, many with prior experience drafting procurement regulations. The Federal Acquisition Regulatory Council established an ambitious goal of publishing the final revisions to the FAR by March 23, 1995.

Results in Brief

With two exceptions, all proposed revisions to the FAR necessary to implement FASA were published in the Federal Register by the May 11, 1995, FASA deadline. The two exceptions were the proposed regulation on fraud remedies, which was published on May 12, 1995, and an implementing regulation for the FASA provision requiring alternatives to payment bonds, which had not been published as of March 15, 1996, when we completed our review.

Of the 29 FAR regulations needed to implement FASA, only 13 were published in final form by the FASA deadline, September 8, 1995. Two more regulations had been issued in interim form.³ An additional 11 final FAR regulations, however, were published by October 1, 1995. Thus, 26 of the 29 FAR revisions needed to implement FASA were in place on the latest date that all changes directed by FASA were to apply to government acquisitions.⁴ According to officials involved in managing the regulation drafting project, key factors that slowed the process included (1) translating FASA language into regulations useful to contracting officers and (2) addressing public comments, especially on the more complex,

²Defense and civilian regulatory councils, with 29 committees covering specialized subjects, traditionally have been responsible for maintaining the FAR. The two-council approach was created so that the Defense Acquisition Regulatory Council retained control over the creation of defense-unique regulations and a newly created Civilian Agency Acquisition Council would share responsibility for regulations that apply governmentwide. The two councils and committees have members from Department of Defense components, the National Aeronautics and Space Administration, and civilian agencies.

³Interim regulations must be followed, but are subject to change before being made final.

⁴The three regulations that were not in place by October 1, 1995, related to alternatives to payment bonds, multiyear contracting, and small disadvantaged businesses.

innovative, or controversial regulations. In general, there was less compliance with FASA deadlines with respect to the non-FAR regulations.

Appendix I lists the final regulations that were published by the FASA deadline, those that were published by October 1, and the status of those regulations that were not published in final form by either of these dates. Appendix II summarizes how each of the 204 FASA sections has been implemented, through regulation or otherwise.

The FAR drafting teams devoted considerable effort toward making FASA regulations concise and understandable. Many team members had previous experience both in writing regulations and in using them, as well as expertise in the different subject areas. Team staffing included legal advisers and executive branch officials familiar with FASA's progress from legislative proposal to enactment. Some team leaders told us that they were able to draw upon regulatory proposals already underway before FASA was enacted. They also told us that some teams consulted subject matter experts. Among the resources available to the teams was the FAR Drafting Conventions Guide, issued in October 1994, which included a chapter on clear writing.

When proposed regulations were circulated to federal agencies or published in the Federal Register, the drafting teams received hundreds of comments. In addition, the Federal Acquisition Regulatory Council, project managers, and drafting teams held public meetings to hear presentations from anyone who wanted to present oral comments on seven proposed regulations. Presenters included agency and industry personnel. Both project managers and drafting teams said that the comments they received helped them to create a better final product. These comments are available at the FAR Secretariat, the office that supports publication of regulations.

Other efforts were made to make the regulations understandable to those who have to use them. The Office of the Secretary of Defense, the Federal Acquisition Institute, and the FASA implementation project worked together to develop a number of different training resources and explanatory materials that would help buying activities understand FASA changes. The training was designed to explain the impact of the new regulations to the acquisition workforce in detail. Training resources included the following:

-
- a five-part videotape series, entitled "FASA: Making It Work," which portrayed operational use of new policies and procedures to conduct different types of procurements;
 - viewer reference materials, including flowcharts and briefing charts, that synopsized and highlighted key points;
 - live, televised call-in question and answer sessions with drafting team leaders and other procurement experts, which were subsequently made available on videotapes and in written form;
 - a side-by-side comparison of changes to the FAR with previous text of the FAR; and
 - a process-oriented Guide to FAR Changes that highlighted changes in conducting procurements in such areas as publicizing proposed procurements, establishing reasonableness of prices, and responding to bid protests.

Officials responsible for sponsoring FASA training estimated that approximately 15,000 people viewed the five-part series when it was broadcast, and 1,600 people requested materials that were available following the broadcasts.

Agency Comments

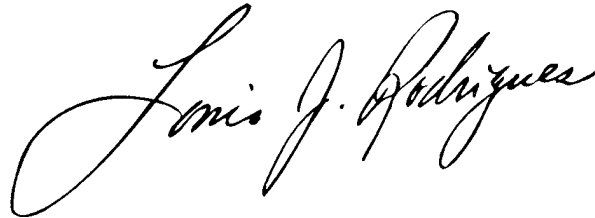
We asked the Departments of Defense, Labor, and Transportation, as well as the Office of Federal Procurement Policy, the General Services Administration, and the National Aeronautics and Space Administration to review and comment on a draft of this report. The Department of Defense orally responded that it generally agreed with the report but offered some editorial and technical suggestions that have been incorporated in the final report. The General Services Administration orally responded with some concerns and editorial and technical suggestions; its concerns and suggestions were discussed and incorporated in the final report. The Departments of Labor and Transportation, the Office of Federal Procurement Policy, and the National Aeronautics and Space Administration indicated their agreement with the report's contents.

Appendix III describes our scope and methodology.

We are sending copies of this report to the Director, Office of Management and Budget; the Secretaries of Defense, Labor, and Transportation; the Administrator for Federal Procurement Policy; the Administrator of General Services; the Administrator of National Aeronautics and Space;

and other interested congressional committees. We also will make copies available to others upon request.

Please contact me or my Associate Director, David E. Cooper, at (202) 512-4841 if you or your staff have any questions concerning this report. Major contributors to this report were Philip A. Goulet, Anne W. Howe, Maureen A. Murphy, and William T. Woods.

A handwritten signature in cursive script that reads "Louis J. Rodrigues". The signature is written in black ink and is positioned above the printed name and title.

Louis J. Rodrigues
Director, Defense Acquisitions Issues

List of Congressional Committees

The Honorable Ted Stevens
Chairman
The Honorable John Glenn
Ranking Minority Member
Committee on Governmental Affairs
United States Senate

The Honorable Strom Thurmond
Chairman
The Honorable Sam Nunn
Ranking Minority Member
Committee on Armed Services
United States Senate

The Honorable Christopher S. Bond
Chairman
The Honorable Dale Bumpers
Ranking Minority Member
Committee on Small Business
United States Senate

The Honorable William F. Clinger
Chairman
The Honorable Cardiss Collins
Ranking Minority Member
Committee on Government Reform and Oversight
House of Representatives

The Honorable Floyd Spence
Chairman
The Honorable Ronald Dellums
Ranking Minority Member
Committee on National Security
House of Representatives

The Honorable Jan Meyers
Chairwoman
The Honorable John J. LaFalce
Ranking Minority Member
Committee on Small Business
House of Representatives

Contents

Letter	1
Appendix I	10
Regulatory	Final Regulations Published by September 8, 1995 10
Implementation of the	Final Regulations Published by 12
Federal Acquisition	October 1, 1995
Streamlining Act of	Interim Regulations Published by September 8, 1995 13
1994	Other Implementation 13
Appendix II	16
Analysis of	
Implementation of	
FASA Sections	
Appendix III	79
Scope and	
Methodology	
Table	Table II.1: FASA Implementation 18

Abbreviations

CRAF	Civil Reserve Air Fleet
DFARS	Defense Federal Acquisition Regulation Supplement
DOD	Department of Defense
FACNET	Federal Acquisition Computer Network
FAR	Federal Acquisition Regulation
FASA	Federal Acquisition Streamlining Act of 1994
FIRMR	Federal Information Resources Management Regulation
GSA	General Services Administration
GSBCA	General Services Administration Board of Contract Appeals
NASA	National Aeronautics and Space Administration
OFPP	Office of Federal Procurement Policy
OMB	Office of Management and Budget
TINA	Truth in Negotiations Act

Regulatory Implementation of the Federal Acquisition Streamlining Act of 1994

This appendix lists, by status, the regulations necessary to implement the Federal Acquisition Streamlining Act of 1994 (FASA). The list of regulations provides titles, citations to the Federal Register, and effective dates, if regulations have been published. Regulations are listed in four categories. The first category contains final regulations that were published by FASA's deadline for final regulations of September 8, 1995. The second category contains additional final regulations that were published after September 8, 1995, but by October 1, 1995. The third category contains interim regulations published by September 8, 1995, and in effect on October 1, 1995, and the fourth category contains descriptions of other implementation. Required regulations were published to revise the Federal Acquisition Regulation (FAR), the Defense Federal Acquisition Regulation Supplement (DFARS), and several other regulations.

Final Regulations Published by September 8, 1995

1. FAR, Past Performance Information, 60 Fed. Reg. 16718 (Mar. 31, 1995), effective May 30, 1995.
2. Rules of Procedure of the General Services Administration Board of Contract Appeals, 60 Fed. Reg. 17023 (Apr. 4, 1995), effective May 5, 1995.
3. Standards of Conduct and Joint Ethics Regulation, 60 Fed. Reg. 20029 (Apr. 24, 1995), effective November 2, 1994.
4. DFARS, Miscellaneous Amendments, 60 Fed. Reg. 29491 (June 5, 1995), effective May 17, 1995. The final rule deleted DFARS language that addressed the requirement for competitive prototyping for major acquisition programs, as directed by Under Secretary of Defense, Acquisition and Technology, memorandum dated May 4, 1995. FASA section 3006 repealed 10 U.S.C. 2438, the statutory basis for the requirement.
5. FAR, Debarment, Suspension, and Ineligibility (Ethics), 60 Fed. Reg. 33064 (June 26, 1995), effective August 25, 1995.¹
6. DFARS, Rights in Technical Data, 60 Fed. Reg. 33464 (June 28, 1995), effective June 30, 1995, applicable for solicitations issued on or after September 29, 1995.

¹This was published simultaneously with revision of the nonprocurement debarment and suspension Common Rule, which requires that suspensions, debarments, and other exclusions from federal programs apply governmentwide to both procurement and nonprocurement activities. (The nonprocurement Common Rule was issued as final regulations by participating executive branch agencies, with the exception of the Department of Transportation, which issued interim final regulations with an opportunity to comment [60 Fed. Reg. 33037, June 26, 1995].)

7. DFARS, Comprehensive Small Business Subcontracting Plans, 60 Fed. Reg. 35668 (July 10, 1995), effective July 10, 1995. No proposed regulation was published.²
8. FAR, Procurement Integrity (Ethics), 60 Fed. Reg. 37773 (July 21, 1995), effective September 19, 1995.
9. FAR, Officials Not to Benefit (Ethics), 60 Fed. Reg. 37773 (July 21, 1995), effective September 19, 1995.
10. FAR, Whistleblower Protections for Contractor Employees (Ethics), 60 Fed. Reg. 37774 (July 21, 1995), effective September 19, 1995.
11. FAR, Repeal of Requirements for Secretarial/Agency Head Determinations Regarding Use of Cost Type or Incentive Contracts, 60 Fed. Reg. 37777 (July 21, 1995), effective September 19, 1995.
12. FAR, Service Contract Funding, 60 Fed. Reg. 37778 (July 21, 1995), effective August 21, 1995. No proposed regulation was published.³
13. GAO, Administrative Practice and Procedure, Bid Protest Regulations, Government Contracts, 60 Fed. Reg. 40737 (Aug. 10, 1995), effective October 1, 1995.
14. FAR, Consolidation and Revision of the Authority to Examine Records, 60 Fed. Reg. 42649 (Aug. 16, 1995), effective October 1, 1995.
15. FAR, Contract Award Implementation, 60 Fed. Reg. 42652 (Aug. 16, 1995), effective October 1, 1995.
16. FAR, Penalties on Unallowable Indirect Costs, 60 Fed. Reg. 42657 (Aug. 16, 1995), effective October 1, 1995.
17. FAR, Implementation of Various Cost Principle Provisions, 60 Fed. Reg. 42659 (Aug. 16, 1995), effective October 1, 1995.

²41 U.S.C. 418b requires that a procurement regulation be published if it has (1) a significant effect beyond the internal operating procedures of the issuing agency or (2) a significant cost or administrative impact on contractors or offerors. Even though FASA required publication of proposed implementing regulations, this regulation did not have the attributes stated in 41 U.S.C. 418b that require publication.

³See footnote 2.

18. FAR, Entertainment, Gift, and Recreation Costs for Contractor Employees, 60 Fed. Reg. 42662 (Aug. 16, 1995), effective October 1, 1995.

19. FAR, Contractor Overhead Certification, 60 Fed. Reg. 42663 (Aug. 16, 1995), effective October 1, 1995.

20. General Services Administration Acquisition Regulation, Leasing Real Property, 60 Fed. Reg. 42793 (Aug. 17, 1995), effective August 16, 1995.

Final Regulations Published by October 1, 1995

1. FAR, Truth in Negotiations Act and Related Changes, 60 Fed. Reg. 48208 (Sept. 18, 1995), effective October 1, 1995.

2. FAR, Protests, Disputes and Appeals, 60 Fed. Reg. 48224 (Sept. 18, 1995), effective October 1, 1995.

3. FAR, Acquisition of Commercial Items, 60 Fed. Reg. 48231 (Sept. 18, 1995), effective October 1, 1995 (optional for solicitations issued before Dec. 1, 1995; mandatory for solicitations issued after Dec. 1, 1995).

4. FAR, Small Business, 60 Fed. Reg. 48258 (Sept. 18, 1995), effective October 1, 1995.

5. FAR, Subcontractor Payments, 60 Fed. Reg. 48272 (Sept. 18, 1995), effective October 1, 1995.

6. FAR, Reimbursement of Protest Costs, 60 Fed. Reg. 48274 (Sept. 18, 1995), effective October 1, 1995.

7. FAR, Contract Financing, 60 Fed. Reg. 49707 (Sept. 26, 1995), effective October 1, 1995.

8. FAR, Special Contracting Methods, 60 Fed. Reg. 49720 (Sept. 26, 1995), effective October 1, 1995.

9. FAR, Task and Delivery Order Contracts (final and interim rule), 60 Fed. Reg. 49723 (Sept. 26, 1995), effective October 1, 1995. The interim rule consists of section 16.500, which was added to FAR Part 16—Types of Contracts.

10. FAR, Fraud Remedies, 60 Fed. Reg. 49728 (Sept. 26, 1995), effective October 1, 1995.

11. FAR, Assignment of Claims, 60 Fed. Reg. 49729 (Sept. 26, 1995), effective October 1, 1995.

Interim Regulations Published by September 8, 1995

1. FAR, Micro-Purchase Procedures, 59 Fed. Reg. 64786 (Dec. 15, 1994), effective December 15, 1994.

2. FAR, Simplified Acquisition Procedures/FACNET, 60 Fed. Reg. 34741 (July 3, 1995), effective July 3, 1995.⁴

3. DFARS, Contract Award (Interim), 60 Fed. Reg. 40106 (Aug. 7, 1995), effective August 7, 1995. Converted to a final rule, 60 Fed. Reg. 61586 (Nov. 30, 1995).

Other Implementation

Proposed Regulations Published by October 1, 1995

1. FAR, Travel Costs, 59 Fed. Reg. 64542 (Dec. 14, 1994). FASA section 2191 repealed the statutory basis for the existing regulation. The Federal Acquisition Regulatory Council withdrew the proposed rule in its notice of public meeting (60 Fed. Reg. 27471, May 24, 1995).

2. FAR, Small Business, 60 Fed. Reg. 2302 (Jan. 6, 1995). Portions covering small disadvantaged businesses (to implement FASA section 7102) were withheld from the final regulation pending executive branch review of affirmative action following the Adarand Supreme Court decision.⁵ Those portions relating to small disadvantaged business set-asides and the evaluation preference for small disadvantaged businesses were established as a separate FAR Case, 94-781. Other portions relating to the

⁴This regulation was published simultaneously with Electronic Contracting, which is an interim regulation to amend the FAR to address use of electronic commerce/electronic data interchange in federal government contracting (60 Fed. Reg. 34735 [July 3, 1995]). The Electronic Contracting interim regulation and the Simplified Acquisition Procedures/FACNET (Federal Acquisition Computer Network) interim regulation are interdependent and meant to be considered jointly.

⁵The Supreme Court's decision in Adarand Constructors, Inc. v. Peña, 115 S. Ct. 2097 (1995), set forth a new standard for evaluating the constitutionality of race-based affirmative action programs, and the President directed on July 19, 1995, that executive agencies review affirmative action programs under that standard.

small business reservation (FASA section 4004) were transferred to the Simplified Acquisition Procedures/FACNET interim regulation. Other coverage in the proposed rule was incorporated into the final regulation at 60 Fed. Reg. 48258 (Sept. 18, 1995).

3. FAR, Special Contracting Methods, 60 Fed. Reg. 14340 (Mar. 16, 1995). Sections covering new procedures for multiyear contracting were not published in final form pending further Office of Management and Budget review and were established as FAR Case 94-712 for separate processing. Most of the coverage in the proposed rule was incorporated into the final regulation at 60 Fed. Reg. 49720 (Sept. 26, 1995).

4. DFARS, Contract Award (Proposed), 60 Fed. Reg. 40146 (Aug. 7, 1995). Regulations implementing FASA sections 1505 and 2402 were made final in 61 Fed. Reg. 7739 (Feb. 29, 1996).

Proposed Regulations
Published After
October 1, 1995

1. DFARS, Cost Principles, 60 Fed. Reg. 53320 (Oct. 13, 1995).

2. DFARS, Truth in Negotiations Act and Related Changes, 60 Fed. Reg. 54326 (Oct. 23, 1995). This publication includes the proposed deletion of DFARS language that implemented 10 U.S.C. 2406, the primary statute covering work measurement systems, which was repealed by FASA section 2201(b).

3. DFARS, Multiyear Contracting and Other Miscellaneous Provisions, 60 Fed. Reg. 56972 (Nov. 13, 1995).

Interim Regulations
Published After
October 1, 1995

1. DFARS, Miscellaneous Amendments, 60 Fed. Reg. 61586 (Nov. 30, 1995). This publication includes interim implementation of FASA defense-unique commercial contracting provisions, effective November 30, 1995.

Regulations Not Published
by March 15, 1996

1. FASA section 1022, Revision and Reorganization of Multiyear Contracting Authority, to be implemented in the National Aeronautics and Space Administration FAR Supplement and Department of Transportation Acquisition Regulation pertaining to the United States Coast Guard. Agency officials told us they were waiting for FAR multiyear contracting coverage before issuing regulations.

2. FASA section 1439, Oversight of Acquisition of Automatic Data Processing Equipment by Federal Agencies. This section was to be implemented in the General Services Administration's Federal Information Resources Management Regulation. However, the oversight authority of the General Services Administration was repealed by section 5101 of the Information Technology Management Reform Act of 1996 (P.L. 104-106, sections 5001-5703).

3. FASA section 4104(b), Miller Act. FASA section 4104(b)(2)(A) requires alternatives to payment bonds as payment protections for suppliers of labor and materials. Publication of an interim rule under FAR Case 95-301 was pending in the spring of 1996, according to the Deputy Project Manager for the Implementation of FASA.⁶

4. FASA section 7105, Extension of Defense Contract Goal to Coast Guard and National Aeronautics and Space Administration, to be implemented in DFARS, the National Aeronautics and Space Administration FAR Supplement, and the Department of Transportation Acquisition Regulation pertaining to the United States Coast Guard (awaiting executive branch review of federal affirmative action programs following the Adarand Supreme Court decision).⁷

5. FASA sections 7301-7306, Community Improvement Volunteer Act of 1994, to be implemented in Department of Labor regulations.

6. FASA section 8301, Inapplicability of Certain Provisions of Law. Section 8301(d) exempts firm fixed-price contracts or subcontracts (without cost incentives) for commercial items from cost accounting standards promulgated by the Cost Accounting Standards Board. The Cost Accounting Standards Board did not amend regulations at 48 C.F.R. 9903.201-1 to reflect this change. However, in a memorandum dated December 18, 1995, the Chairman of the Cost Accounting Standards Board notified senior procurement executives that the Board delegated to federal procuring agencies the authority to waive the application of cost accounting standards to individual firm fixed-price contracts for the acquisition of commercial items, when cost or pricing data is not obtained.

⁶Pending required implementation of FASA section 4104 (b)(2)(A) in the FAR, an interim DFARS rule providing alternatives to payment bonds for Department of Defense agencies was published and effective on August 31, 1995 (60 Fed. Reg. 45376). Revisions, still interim, were published later (61 Fed. Reg. 3600 and 61 Fed. Reg. 7739).

⁷See footnote 5.

Analysis of Implementation of FASA Sections

This appendix provides a section-by-section guide to FASA implementation. The first two columns of table II.1 set out all FASA sections and titles, followed by brief synopses in the third column. The remaining five columns under the "Implementation" heading provide either citations for regulatory implementation or other explanatory information if the FASA section did not require regulatory implementation. We used the following five implementation categories:

- Final regulation published by September 8, 1995. Regulatory implementation met FASA's deadline for publication in final form.
- Final regulation published by October 1, 1995. Although not published by September 8, 1995, the regulation was published in final form by the latest date all FASA provisions of law became applicable.
- Proposed regulation published by October 1, 1995. This category includes references to regulations published only in proposed form by October 1, 1995.
- Other. This category consists of regulatory implementation or other status as follows:
 - interim regulations, which must be followed, but remain subject to change when made final and
 - FASA sections for which no regulatory implementation has been published in any form.
- No regulatory implementation required. This category includes information relating to FASA sections that did not require revising regulations in the Code of Federal Regulations. The reasons for this include the following:
 - FASA changes were technical in nature (e.g., editorial revisions or changes made to achieve conformity with other laws);
 - existing regulations were sufficient to cover FASA's content and did not need revision; or
 - FASA was implemented through other types of actions, not by revising regulations.

The 204 sections of FASA were grouped into the following 10 titles:

- Title I—Contract Formation
- Title II—Contract Administration
- Title III—Service Specific and Major Systems Statutes
- Title IV—Simplified Acquisition Threshold
- Title V—Acquisition Management
- Title VI—Other Procurement-Related Matters
- Title VII—Small Business and Socioeconomic Laws

Appendix II
Analysis of Implementation of
FASA Sections

-
- Title VIII—Commercial Items
 - Title IX—Federal Acquisition Computer Network
 - Title X—Effective Dates and Implementation

**Appendix II
Analysis of Implementation of
FASA Sections**

Table II.1: FASA Implementation

FASA section	Section title	Synopsis
1001 (see 1051)	References to Federal Acquisition Regulation	Deletes obsolete reference to the FAR.
1002 (see 1052)	Establishment or Maintenance of Alternative Sources of Supply	Authorizes exclusion of a source of supply to ensure the continuous availability of a reliable source; satisfy projected needs as determined by a history of high demand; or satisfy a critical need for medical, safety, or emergency supplies.
1003 (see 1053)	Clarification of Approval Authority for Use of Procedures Other Than Full and Open Competition	Permits justifications for the use of other than competitive procedures for contracts over \$100,000, but not over \$1 million, to be approved by officials with authority to approve the use of such procedures for contracts that exceed \$1 million.
1004 (see 1054)	Task and Delivery Order Contracts	Codifies existing general authority for the use of task and delivery order contracts and authorizes agencies to enter into such contracts for advisory and assistance services (with mandatory multiple awards for advisory and assistance contracts exceeding 3 years and \$10 million in value).
1005 (see 1055)	Acquisition of Expert Services	Authorizes the use of other than competitive procedures to acquire expert services for use in litigation or disputes involving the federal government.
1011 (see 1061)	Source Selection Factors	Requires the disclosure of evaluation factors and subfactors, including past performance as well as cost or price. Solicitation must state whether or not discussions will be held before award. Requires disclosure of relative importance of technical factors as compared to cost or price.
1012 (see 1062)	Solicitation Provision Regarding Evaluation of Purchase Options	Provides that a solicitation for contracts to be awarded using sealed bid procedures cannot include clause providing for evaluation of option pricing, unless it is reasonably likely that the option will be exercised.

**Appendix II
Analysis of Implementation of
FASA Sections**

Implementation				
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
				Technical change.
60 Fed. Reg. 42652 (Aug. 16, 1995)				
FAR, 48 C.F.R. 6.202				
60 Fed. Reg. 42652 (Aug. 16, 1995)				
FAR, 48 C.F.R. 6.304				
	60 Fed. Reg. 49723 (Sept. 26, 1995)		60 Fed. Reg. 49723 (Sept. 26, 1995)	
	Revised FAR subpart 16.5 and made various conforming amendments at: 52.216-18; 52.216-19; 52.216-20; 52.216-21; 52.216-22; 52.216-27; 52.216-28		Added interim rule at FAR 16.500, which defines the scope of FAR subpart 16.5.	
60 Fed. Reg. 42652 (Aug. 16, 1995)				
FAR, 48 C.F.R. 5.202; 5.301; 6.302-3				
60 Fed. Reg. 42652 (Aug. 16, 1995)				
FAR, 48 C.F.R. 15.406-5; 15.407; 15.605; 15.610; 52.215-16				
60 Fed. Reg. 42652 (Aug. 16, 1995)				
FAR, 48 C.F.R. 17.202; 17.208				

(continued)

**Appendix II
Analysis of Implementation of
FASA Sections**

FASA section	Section title	Synopsis
1013 (see 1063)	Prompt Notice of Award	Requires award notification to unsuccessful offerors or bidders by written or electronic means within 3 days after contract award.
1014 (see 1064)	Post-Award Debriefings	Requires unsuccessful offerors to be debriefed upon written request received within 3 days after offeror receives notice of contract award. Debriefing should take place within 5 days "to the maximum extent practicable." Sets out categories of information to be discussed and prohibits point-by-point comparison of offerors.
1015 (see 1065)	Protest File	Requires procuring activity to establish file for protests to Comptroller General at the request of an actual or prospective offeror. Others must be provided reasonable access to file.
1016 (see 1066)	Agency Actions on Protests	Authorizes agency head to take action, including recompetition, termination, or issuance of a new solicitation, if he or she determines that a solicitation, proposed award, or award does not comply with the requirements of law or regulation. The agency head may also pay protest costs and bid and proposal preparation costs.
1021 (see 1071)	Repeal of Requirement for Secretarial Determination Regarding Use of Cost Type or Incentive Contracts	Repeals requirement for a determination prior to the use of cost-type or incentive-type contracts.
1022 (see 1072)	Revision and Reorganization of Multiyear Contracting Authority	Revises and reorganizes multiyear contracting authority of the Department of Defense (DOD), National Aeronautics and Space Administration (NASA), and the U.S. Coast Guard.

**Appendix II
Analysis of Implementation of
FASA Sections**

Implementation				
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
60 Fed. Reg. 42652 (Aug. 16, 1995)				
FAR, 48 C.F.R. 2.101; 14.408-1; 14.409-1; 15.1002; 15.1003; 25.405; 36.304				
60 Fed. Reg. 42652 (Aug. 16, 1995)				
FAR, 48 C.F.R. 2.101; 14.409-1; 15.1004; 25.405; 36.607; 52.215-16				
	60 Fed. Reg. 48224 (Sept. 18, 1995)			
	FAR, 48 C.F.R. 33.104			
	60 Fed. Reg. 48224 (Sept. 18, 1995)			
	FAR, 48 C.F.R. 33.102			
60 Fed. Reg. 37777 (July 21, 1995)				
FAR, 48 C.F.R. 16.301-3; 16.306; 16.403; 16.403-1; 16.403-2; 36.606				
	60 Fed. Reg. 14340 (Mar. 16, 1995)	60 Fed. Reg. 56972 (Nov. 13, 1995) (Proposed rule)		
	FAR, 48 C.F.R. 17.1	DFARS, 48 C.F.R. 217.1		
		NASA and the U.S. Coast Guard are also required to draft regulations under this section.		

(continued)

Appendix II
Analysis of Implementation of
FASA Sections

FASA section	Section title	Synopsis
1031 (see 1092)	Repeal of Requirement for Annual Report by Advocates for Competition	Repeals requirement for annual reports by DOD competition advocates.
1051 (see 1001)	References to Federal Acquisition Regulation	Deletes obsolete reference to the FAR.
1052 (see 1002)	Establishment or Maintenance of Alternative Sources of Supply	Authorizes exclusion of a source of supply to ensure the continuous availability of a reliable source; satisfy projected needs as determined by a history of high demand; or satisfy a critical need for medical, safety, or emergency supplies.
1053 (see 1003)	Clarification of Approval Authority for Use of Procedures Other Than Full and Open Competition	Permits justifications for the use of other than competitive procedures for contracts over \$100,000, but not over \$1 million, to be approved by officials with authority to approve the use of such procedures for contracts that exceed \$1 million.
1054 (see 1004)	Task and Delivery Order Contracts	Codifies existing general authority for the use of task and delivery order contracts and authorizes agencies to enter into such contracts for advisory and assistance services (with mandatory multiple awards for advisory and assistance contracts exceeding 3 years and \$10 million in value).
1055 (see 1005)	Acquisition of Expert Services	Authorizes the use of other than competitive procedures to acquire expert services for use in litigation or disputes involving the federal government. Repeals exemption from Competition in Contracting Act requirements applicable to certain Internal Revenue Service contracts involving tax return examination or litigation.
1061 (see 1011)	Solicitation, Evaluation, and Award	Requires the disclosure of evaluation factors and subfactors, including past performance, as well as cost or price. Authorizes civilian agencies to make awards without discussions if solicitation states that this will be done. Solicitation must state whether or not discussions will be held before award. Requires disclosure of relative importance of technical factors as compared to cost or price.
1062 (see 1012)	Solicitation Provision Regarding Evaluation of Purchase Options	Provides that a solicitation for contracts to be awarded using sealed bid procedures cannot include clause providing for evaluation of option pricing, unless it is reasonably likely that the option will be exercised.

**Appendix II
Analysis of Implementation of
FASA Sections**

Implementation				
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
				No action required. ^a
				Technical change.
60 Fed. Reg. 42652 (Aug. 16, 1995)				
FAR, 48 C.F.R. 6.202				
60 Fed. Reg. 42652 (Aug. 16, 1995)				
FAR, 48 C.F.R. 6.304				
	60 Fed. Reg. 49723 (Sept. 26, 1995)		60 Fed. Reg. 49723 (Sept. 26, 1995)	
	Revised FAR subpart 16.5 and made various conforming amendments at: 52.216-18; 52.216-19; 52.216-20; 52.216-21; 52.216-22; 52.216-27; 52.216-28		Added interim rule at FAR 16.500, which defines the scope of FAR subpart 16.5.	
60 Fed. Reg. 42652 (Aug. 16, 1995)				
FAR, 48 C.F.R. 5.202; 5.301; 6.302-3				
60 Fed. Reg. 42652 (Aug. 16, 1995)				
FAR, 48 C.F.R. 15.406-5; 15.407; 15.605; 15.610; 52.215-16				
60 Fed. Reg. 42652 (Aug. 16, 1995)				
FAR, 48 C.F.R. 17.202; 17.208				

(continued)

**Appendix II
Analysis of Implementation of
FASA Sections**

FASA section	Section title	Synopsis
1063 (see 1013)	Prompt Notice of Award	Requires award notification to unsuccessful offerors or bidders by written or electronic means within 3 days after contract award.
1064 (see 1014)	Post-award Debriefings	Requires unsuccessful offerors to be debriefed upon written request received within 3 days after offeror receives notice of contract award. Debriefing should take place within 5 days "to the maximum extent practicable." Sets out categories of information to be discussed and prohibits point-by-point comparison of offerors.
1065 (see 1015)	Protest File	Requires procuring activity to establish file for protests to Comptroller General at the request of an actual or prospective offeror. Others must be provided reasonable access to file.
1066 (see 1016)	Agency Actions on Protests	Authorizes agency head to take action, including recompetition, termination, or issuance of a new solicitation, if he or she determines that a solicitation, proposed award, or award does not comply with the requirements of law or regulation. The agency head may also pay protest costs and bid and proposal preparation costs.
1071 (see 1021)	Repeal of Agency Head Determination Regarding Use of Cost Type or Incentive Contract	Repeals requirement for a determination prior to the use of cost-type or incentive-type contracts.
1072 (see 1022)	Multiyear Contracting Authority	Authorizes civilian agencies to enter into multiyear contracts if funds are available, demand for product is reasonably firm, and contract is in the best interest of the United States. Congress must be notified before award of any contract containing a cancellation ceiling over \$10 million.
1073	Severable Services Contracts Crossing Fiscal Years	Authorizes civilian agency heads to enter into contracts for procurement of severable services for a period that begins in one fiscal year and ends in the next, if the contract period does not exceed 1 year, excluding options.

**Appendix II
Analysis of Implementation of
FASA Sections**

Implementation				
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
60 Fed. Reg. 42652 (Aug. 16, 1995)				
FAR, 48 C.F.R. 2.101; 14.408-1; 14.409-1; 15.1002; 15.1003; 25.405; 36.304				
60 Fed. Reg. 42652 (Aug. 16, 1995)				
FAR, 48 C.F.R. 2.101; 14.409-1; 15.1004; 25.405; 36.607; 52.215-16				
	60 Fed. Reg. 48224 (Sept. 18, 1995)			
	FAR, 48 C.F.R. 33.104			
	60 Fed. Reg. 48224 (Sept 18, 1995)			
	FAR, 48 C.F.R. 33.102			
60 Fed. Reg. 37777 (July 21, 1995)				
FAR, 48 C.F.R. 16.301-3; 16.306; 16.403; 16.403-1; 16.403-2; 36.606				
		60 Fed. Reg. 14340 (Mar. 16, 1995)		
		FAR, 48 C.F.R. 17.1		
60 Fed. Reg. 37778 (July 21, 1995)				
FAR, 48 C.F.R. 32.703-3; 37.106				

(continued)

Appendix II
Analysis of Implementation of
FASA Sections

FASA section	Section title	Synopsis
1074	Economy Act Purchases	Requires revision of FAR provisions governing federal agency authority to purchase goods and services under contracts entered into or administered by other agencies.
1091	Policy Regarding Consideration of Contractor Past Performance	Requires the Administrator of the Office of Federal Procurement Policy (OFPP) to provide guidance regarding the consideration of past performance. Guidance to include evaluation standards, information collection and maintenance provisions, and policy to ensure offeror has opportunity to submit and have past performance information considered.
1092 (see 1031)	Repeal of Requirement for Annual Report on Competition	Repeals former requirement for agency heads to report to Congress on actions taken to increase competition and to decrease the number and dollar value of noncompetitive contracts.
1093	Discouragement of Nonstandard Contract Clauses	Requires the FAR Council to promulgate regulations to discourage the use of nonstandard contract clauses on a repetitive basis.
1201 (see 1251)	Stabilization of Dollar Threshold of Applicability	Establishes a permanent \$500,000 threshold for the submission of cost or pricing data under the Truth in Negotiations Act (TINA) for DOD, NASA, and the U.S. Coast Guard.
1202 (see 1251)	Exceptions to Cost or Pricing Data Requirements	Establishes mandatory cost or pricing data exception when price is based on adequate competition, established catalog or market price of commercial item sold in substantial quantities to the general public, or prices set by law or regulation. Sets out exception for commercial item modifications that do not change nature of acquisition from commercial to noncommercial.
1203 (see 1251)	Restrictions on Additional Authority to Require Cost or Pricing Data or Other Information	Authorizes agency to require submission of cost or pricing data for procurements under \$500,000 only upon nondelegable written determination by head of the procuring activity. In no event may data be required if one of the statutory exceptions set out in section 1202 applies. Authorizes procuring activity head to request other types of data to determine price reasonableness.

**Appendix II
Analysis of Implementation of
FASA Sections**

Implementation				
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
	60 Fed. Reg. 49720 (Sept. 26, 1995)			
	FAR, 48 C.F.R. 17.5			
60 Fed. Reg. 16718 (Mar. 31, 1995)			See also A Guide to Best Practices for Past Performance (OFPP, interim edition, May 1995)	
FAR, 48 C.F.R. 9.104-1; 9.105-1; 15.406-5; 15.604; 15.605; 15.608; 15.610; 15.1003; 42.302; 42.15				
				No action required. ^a
				The FAR already had standard clauses, and FAR Part 1 allows for authorized deviations.
	60 Fed. Reg. 48208 (Sept. 18, 1995)			
	FAR, 48 C.F.R. 15.804-2			
	60 Fed. Reg. 48208 (Sept. 18, 1995)			
	FAR, 48 C.F.R. 15.804-1; 15.804-2; 15.804-3 (removed and reserved); 15.806-1; 15.806-2; 52.215-26; 52.215-41; 52.215-42			
	60 Fed. Reg. 48208 (Sept. 18, 1995)			
	FAR, 48 C.F.R. 15.804-2; 15.804-3 (removed and reserved); 15.804-5; 15.804-6; 53.215-2			

(continued)

Appendix II
Analysis of Implementation of
FASA Sections

FASA section	Section title	Synopsis
1204 (see 1251)	Additional Special Rules for Commercial Items	Creates new exception to cost and pricing data requirement in competitive procurements of commercial items where purchase is based on adequate price competition. Discusses information to collect to determine price reasonableness when procurement is not based on adequate competition. Sets out provisions related to audit of information.
1205 (see 1251)	Right of United States to Examine Contractor Records	Gives agency heads the authority provided under 10 U.S.C. 2313 to examine contractor records for the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data.
1206 (see 1251)	Required Regulations	Requires inclusion in the FAR of a list of the types of information offerors must submit for price reasonableness determinations when certified cost or pricing data is not required.
1207 (see 1251)	Consistency of Time References	Ensures consistency of time references in TINA (10 U.S.C. 2306a).
1208 (see 1251)	Exception for Transfers Between Divisions, Subsidiaries, and Affiliates	Defines "cost and pricing data," "subcontract," and "commercial item" as applicable to TINA. "Subcontract" defined to include a transfer of commercial items between divisions, subsidiaries, or affiliates of a contractor or a subcontractor.
1209	Coverage of Coast Guard and NASA for Interest and Payments on Certain Overpayments	Sets out TINA provisions governing interest and penalties for overpayments due to defective cost or pricing data made applicable to NASA and the U.S. Coast Guard.
1210	Repeal of Superseded Provision	Repeals superseded provisions related to TINA.

**Appendix II
Analysis of Implementation of
FASA Sections**

Implementation				
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
	60 Fed. Reg. 48208 (Sept. 18, 1995)			
	FAR, 48 C.F.R. 15.106-2; 15.804-1; 15.804-3 (removed and reserved); 15.804-5; 52.215-26; 52.215-41; 52.215-42; 52.215-43			
60 Fed. Reg. 42649 (Aug. 16, 1995)				
48 C.F.R. 14.201-7; 15.106-1; 52.214-26; 52.215-2				
	60 Fed. Reg. 48208 (Sept. 18, 1995)			
	FAR, 48 C.F.R. 15.804-5			
	60 Fed. Reg. 48208 (Sept. 18, 1995)			
	FAR, 48 C.F.R. 15.801; 15.804-4			
	60 Fed. Reg. 48208 (Sept. 18, 1995)			
	FAR, 48 C.F.R. 15.801			
	60 Fed. Reg. 48208 (Sept. 18, 1995)			
	FAR, 48 C.F.R. 15.804-7			
				Technical change.

(continued)

**Appendix II
Analysis of Implementation of
FASA Sections**

FASA section	Section title	Synopsis
1251 (see 1201-1208)	Revision of Civilian Agency Provisions to Ensure Uniform Treatment of Cost or Pricing Data	Ensures uniformity of TINA requirements for civilian agencies and for DOD, NASA, and the U.S. Coast Guard.
1252	Repeal of Obsolete Provision (41 U.S.C. 253e)	Repeals section 303E of the Federal Property and Administrative Services Act, which required offerors of commercial items to certify lowest price or justify the difference.
1301	Research Projects	Technical amendments to the research and development project guidelines for DOD.
1401 (see 1438)	Protest Defined	Defines "protest" to include the written objection to a solicitation, cancellation of a solicitation, award or proposed award, and termination or cancellation of an award if improprieties are alleged.
1402	Review of Protests and Effect on Contracts Pending Decision	Changes working days to calendar days in Comptroller General bid protest statutory provisions. Allows contracting officers to withhold authorization to proceed with contract performance when a bid protest is likely and immediate performance would not be in the best interests of the United States.
1403 (see 1435)	Decisions on Protests	Changes working days to calendar days in bid protest provisions. Requires new protest grounds to be resolved during initial time period of decision to the maximum extent practicable. Authorizes Comptroller General recommendations, rather than directives, to agencies on payment of fees and costs. Authorizes capped payments of expert witness, consultant, and attorney fees. (Small business concerns are excepted from capping.)

**Appendix II
Analysis of Implementation of
FASA Sections**

		Implementation		
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
60 Fed. Reg. 42649 (Aug. 16, 1995)	60 Fed. Reg. 48208 (Sept. 18, 1995)			
FAR, 48 C.F.R. 14.201-7; 15.106-1; 52.214-26; 52.215-2	FAR, 48 C.F.R. 15.106-2; 15.801; 15.804-1—15.804-7; 15.806-1; 15.806-2; 52.215-26; 52.215-41; 52.215-42; 52.215-43; 53.215-2			
	60 Fed. Reg. 48208 (Sept. 18, 1995)			
	FAR, 48 C.F.R. 14.214 (removed and reserved); 15.813—15.813-7 (removed); 52.215-32; 52.215-37 (removed and reserved)			
				Technical change.
60 Fed. Reg. 40737 (Aug. 10, 1995)	60 Fed. Reg. 48224 (Sept. 18, 1995)			
GAO Bid Protest Regulations, 4 C.F.R. Part 21	FAR, 48 C.F.R. 33.101			
60 Fed. Reg. 40737 (Aug. 10, 1995)	60 Fed. Reg. 48224 (Sept. 18, 1995)			
GAO Bid Protest Regulations, 4 C.F.R. Part 21	FAR, 48 C.F.R. 33.102; 33.104; 52.233-3			
60 Fed. Reg. 40737 (Aug. 10, 1995)	60 Fed. Reg. 48224 (Sept. 18, 1995); 60 Fed. Reg. 48274 (Sept. 18, 1995)			
GAO Bid Protest Regulations, 4 C.F.R. Part 21	FAR, 48 C.F.R. 33.104; 52.233-3			

(continued)

Appendix II
Analysis of Implementation of
FASA Sections

FASA section	Section title	Synopsis
1404 (see 1437)	Regulations	Authorizes the Comptroller General to establish procedures for electronic filing and dissemination and clarifies the computation of deadlines.
1431	Revocation of Delegations of Procurement Authority	Authorizes the General Services Administration (GSA) Administrator to revoke a delegation of procurement authority after award only in cases involving a violation of law or regulation.
1432	Authority of the General Services Administration Board of Contract Appeals	Sets out authority for General Services Administration Board of Contract Appeals (GSBCA) review of contracting officer decisions alleged to have violated a statute, regulation, or condition of any procurement authority delegation.
1433	Periods for Certain Actions	Conforms GSBCA and Comptroller General time schedules related to suspension hearings. Substitutes calendar days for working days and requires new protest grounds to be resolved within original protest time frame to maximum extent practicable. Allows procurement process to continue during protest if in best interests of the United States.
1434	Dismissals of Protests	Authorizes GSBCA to dismiss protests it determines are frivolous, have been brought in bad faith, or do not state a valid basis for protest.
1435 (see 1403)	Award of Costs	Authorizes payment of consultant and expert witness fees, as well as attorneys fees at capped levels in protests before the GSBCA. (Small business concerns are excepted from capping.)
1436	Dismissal Agreements	Requires settlement agreements involving protest dismissal and direct or indirect expenditure of appropriated funds to be publicly disclosed. Authorizes payments resulting from such agreements to be made from the judgment fund, as appropriated in 31 U.S.C. 1304. The federal agency concerned has to reimburse that account.
1437 (see 1404)	Matters to be Covered in Regulations	Authorizes GSBCA to establish procedures for electronic filing and dissemination and clarifies computation of deadlines. GSBCA procedures must allow for imposition of appropriate sanctions, including dismissal, for frivolous and bad faith protests, as well as willful abuse of GSBCA's process.

**Appendix II
Analysis of Implementation of
FASA Sections**

		Implementation		
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
60 Fed. Reg. 40737 (Aug. 10, 1995)	60 Fed. Reg. 48224 (Sept. 18, 1995)			
GAO Bid Protest Regulations, 4 C.F.R. Part 21	FAR, 48 C.F.R. 33.101			
				GSA determination that revision to the Federal Information Resources Management Regulation (FIRMR) would not be needed.
60 Fed. Reg. 17023 (Apr. 4, 1995)	60 Fed. Reg. 48224 (Sept. 18, 1995)			
GSBCA Rules, 48 C.F.R. Part 6101	FAR, 48 C.F.R. 33.105			
60 Fed. Reg. 17023 (Apr. 4, 1995)	60 Fed. Reg. 48224 (Sept. 18, 1995)			
GSBCA Rules, 48 C.F.R. Part 6101	FAR, 48 C.F.R. 33.105			
60 Fed. Reg. 17023 (Apr. 4, 1995)				
GSBCA Rules, 48 C.F.R. Part 6101.28				
60 Fed. Reg. 17023 (Apr. 4, 1995)	60 Fed. Reg. 48224 (Sept. 18, 1995); 60 Fed. Reg. 48274 (Sept. 18, 1995)			
GSBCA Rules, 48 C.F.R. Part 6101	FAR, 48 C.F.R. 33.105; 52.233-3			
60 Fed. Reg. 17023 (Apr. 4, 1995)	60 Fed. Reg. 48224 (Sept. 18, 1995)			
GSBCA Rules, 48 C.F.R. Part 6101	FAR, 48 C.F.R. 33.105			
60 Fed. Reg. 17023 (Apr. 4, 1995)	60 Fed. Reg. 48224 (Sept. 18, 1995)			
GSBCA Rules, 48 C.F.R. Part 6101	FAR, 48 C.F.R. 33.101			

(continued)

**Appendix II
Analysis of Implementation of
FASA Sections**

FASA section	Section title	Synopsis
1438 (see 1401)	Definition of Protest	Defines "protest" to include the written objection to a solicitation, cancellation of a solicitation, award or proposed award, and termination or cancellation of an award if improprieties are alleged.
1439	Oversight of Acquisition of Automatic Data Processing Equipment by Federal Agencies	Requires GSA to collect and compile data regarding the procurement of automatic data processing equipment.
1501	Repeal of Policy Statement	Repeals superseded provision of law stating congressional defense procurement policy.
1502 (see 1551)	Definitions	Cross-references definitions applicable to acquisitions of DOD, NASA, and the U.S. Coast Guard to definitions found in section 4 of the OFPP Act (41 U.S.C. 403).
1503 (see 1552)	Delegation of Procurement Functions	Consolidates provisions related to the assignment and delegation of procurement functions within DOD, NASA, and the U.S. Coast Guard. Requires the Secretary of Defense to prescribe regulations prohibiting military departments participating in joint acquisition programs approved by the Under Secretary of Defense for Acquisition and Technology from reducing participation in the program without the approval of the Under Secretary.
1504 (see 1553)	Determinations and Decisions	Authorizes agency head to make individual or class determinations and decisions for purchases or contracts relating to multiyear contracting, contract financing, and records examination authority.
1505	Restrictions on Undefined Contractual Actions	Deletes use of "expend" and requires use of "obligate" when computing dollar limits for undefined actions. Authorizes a waiver of restrictions to support contingency operations.

**Appendix II
Analysis of Implementation of
FASA Sections**

Implementation				
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
60 Fed. Reg. 17023 (Apr. 4, 1995)	60 Fed. Reg. 48224 (Sept. 18, 1995)			
GSBCA Rules, 48 C.F.R. Part 6101	FAR, 48 C.F.R. 33.101			
			Was to be implemented in GSA's FIRMR. However, section 5101 of Public Law 104-106 repealed GSA's oversight authority.	
60 Fed. Reg. 37777 (July 21, 1995)				
FAR, 48 C.F.R. 7.102; 11.002; 19.000; 41.103				
			60 Fed. Reg. 34741 (July 3, 1995) (Interim rule)	
			FAR, 48 C.F.R. 13.101	
	60 Fed. Reg. 49720 (Sept. 26, 1995)		See also DOD policies and procedures for initiating and managing joint acquisition programs in DOD Instruction 5000.2 (Part 12) revised Feb. 26, 1993.	
	FAR, 48 C.F.R. 1.6			
				No action required. ^a
		60 Fed. Reg. 40146 (Aug. 7, 1995); 61 Fed. Reg. 7739 (Feb. 29, 1996) (Converted to a final rule.)		
		DFARS, 48 C.F.R. 216.603-4; 216.703; 217.202; 217.7402; 217.7404-3; 217.7406; 252.217-7027		

(continued)

**Appendix II
Analysis of Implementation of
FASA Sections**

FASA section	Section title	Synopsis
1506	Repeal of Requirement Relating to Production Special Tooling and Production Special Test Equipment	Repeals 10 U.S.C. 2329.
1507	Regulations for Bids	Authorizes the Secretary of Defense to prescribe regulations relating to the preparation, submission, and opening of bids for contracts.
1551 (see 1502)	Definitions	Cross-references civilian agency acquisition definitions to definitions found in section 4 of the OFPP Act (41 U.S.C. 403).
1552 (see 1503)	Delegation of Procurement Functions	Consolidates provisions related to the assignment and delegation of procurement functions within civilian agencies.
1553 (see 1504)	Determinations and Decisions	Authorizes civilian agency head to make individual or class determinations and decisions for purchases or contracts relating to multiyear contracting, contract financing, and records examination authority.
1554	Repeal of Preference for Recycled Toner Cartridges	Repeal of certain provisions of law relating to a preference for procurement of recycled toner cartridges.
1555	Cooperative Purchasing	Authorizes GSA Administrator to permit state and local governments and certain other entities to use GSA federal supply schedule or other contracts.

**Appendix II
Analysis of Implementation of
FASA Sections**

Implementation				
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
			60 Fed. Reg. 40106 (Aug. 7, 1995) (Interim rule); 60 Fed. Reg. 61586 (Nov. 30, 1995) (Converted to a final rule without change.) DFARS, 48 C.F.R. 215.871 (removed and reserved)	
				See FAR Part 14 and DFARS Part 214.
			60 Fed. Reg. 34741 (July 3, 1995) (Interim rule) FAR, 48 C.F.R. 13.101	
	60 Fed. Reg. 49720 (Sept. 26, 1995) FAR, 48 C.F.R. 1.6			
				No action required. ^a
				No action required. ^b
60 Fed. Reg. 42652 (Aug. 16, 1995) FAR, 48 C.F.R. 51.101; 51.102			See also GSA's Implementation Plan for Section 1555 of the Federal Acquisition Streamlining Act of 1994; Cooperative Purchasing (60 Fed. Reg. 17764, Apr. 7, 1995). Section 4309 of Public Law 104-106 delayed implementation.	

(continued)

Appendix II
Analysis of Implementation of
FASA Sections

FASA section	Section title	Synopsis
2001 (see 2051)	Contract Financing	Consolidates contract financing provisions and directs the use of performance-based payments "whenever practicable." Authorizes payments for commercial items using commercial terms and conditions when in the best interests of the United States.
2002	Repeal of Vouchering Procedures Section	Repeals DOD vouchering requirements in 10 U.S.C. 2355.
2051 (see 2001)	Contract Financing	Consolidates contract financing provisions and directs the use of performance-based payments "whenever practicable." Authorizes payments for commercial items using commercial terms and conditions when in the best interests of the United States.
2091	Government-wide Application of Payment Protections for Subcontractors and Suppliers	Directs FAR Council to modify the FAR to apply governmentwide payment protections previously applicable only to DOD contracts.
2101 (see 2151)	Allowable Contract Costs	Applies contract cost principles to DOD, NASA, and U.S. Coast Guard contracts over \$500,000 (periodically adjusted for inflation). Exempts firm fixed-price contracts for commercial items from provision. Adds costs of lobbying local governmental bodies to current prohibition on reimbursement of costs of lobbying state and federal bodies.

**Appendix II
Analysis of Implementation of
FASA Sections**

Implementation				
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
	60 Fed. Reg. 49707 (Sept. 26, 1995); FAR, 48 C.F.R. 32.000—32.006-5; 32.1; 32.2; 32.4; 32.5; 32.10; 42.3; 52.232-29—52.232-32			
				DOD determination that no revisions to DOD guidance would be needed.
	60 Fed. Reg. 49707 (Sept. 26, 1995); 60 Fed. Reg. 49728 (Sept. 26, 1995) FAR, 48 C.F.R. 32.000—32.006-5; 32.1; 32.2; 32.4; 32.5; 32.10; 42.3; 52.232-29—52.232-32			
	60 Fed. Reg. 48272 (Sept. 18, 1995) FAR, 48 C.F.R. 28.106-4; 28.106-6; 32.112-1; 32.112-2; 52.228-12			
60 Fed. Reg. 42657 (Aug. 16, 1995); 60 Fed. Reg. 42659 (Aug. 16, 1995); 60 Fed. Reg. 42663 (Aug. 16, 1995) FAR, 48 C.F.R. 31.110; 31.205-1; 31.205-6; 31.205-22; 31.205-43; 31.603; 31.703; 37.113—37.113-2; 42.703-2; 42.705-1; 42.709—42.709-6; 52.237-8; 52.237-9; 52.242-3; 52.242-4				

(continued)

Appendix II
Analysis of Implementation of
FASA Sections

FASA section	Section title	Synopsis
2102	Repeal of Authority for Contract Profit Controls During Emergency Periods	Repeals statutory authority providing standby profit controls on defense contracts during war or national emergency.
2151 (see 2101)	Allowable Contract Costs	Establishes contract cost principles for civilian agencies. Principles are substantially the same as those applicable to DOD, NASA, and the U.S. Coast Guard.
2191	Travel Expenses of Government Contractors	Repeals section 24 of the OFPP Act (41 U.S.C. 420), which generally limited recovery of contractor travel expenses to maximum per diem rates authorized for government employees.
2192	Revisions of Cost Principle Relating to Entertainment, Gift, and Recreation Costs for Contractor Employees	Directs that the FAR be revised to prohibit reimbursement of entertainment costs and that the FAR set out the specific instances in which gifts and employee morale expenses are permissible.
2201 (see 2251)	Consolidation and Revision of Authority to Examine Records of Contractors	Consolidates audit provision, including a prohibition on a preaward audit related to indirect costs in cases where a contracting officer determines that audit objectives can be met with another federal agency audit not more than 1 year old. Permits contractors to store records electronically or photographically. Requires that GAO records access authority not include any requirement for the special creation or maintenance of records.

**Appendix II
Analysis of Implementation of
FASA Sections**

Implementation				
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
				No action required. ^c
60 Fed. Reg. 42657 (Aug. 16, 1995); 60 Fed. Reg. 42659 (Aug. 16, 1995); 60 Fed. Reg. 42663 (Aug. 16, 1995)				
FAR, 48 C.F.R. 31.110; 31.205-1; 31.205-6; 31.205-22; 31.205-43; 31.603; 31.703; 37.113—37.113-2; 42.703-2; 42.705-1; 42.709—42.709-6; 52.237-8; 52.237-9; 52.242-3; 52.242-4				The FAR Council maintained the existing regulation while it considered alternative proposed rules.
60 Fed. Reg. 42662 (Aug. 16, 1995)				
FAR, 48 C.F.R. 31.205-13; 31.205-14				
60 Fed. Reg. 42649 (Aug. 16, 1995)			60 Fed. Reg. 54326 (Oct. 23, 1995) (Proposed rule)	
FAR, 48 C.F.R. 1.106; 4.702; 4.703; 4.706 (removed and reserved); 4.706-1—4.706-3 (removed); 15.106-1; 15.805-5; 25.000; 25.901; 50.307; 52.214-26; 52.215-1 (removed and reserved); 52.215-2			DFARS, 48 C.F.R. 215.872 (removed and reserved); 215.872-1—215.872-4 (removed); 48 C.F.R. 252.215-7000 (removed and reserved)	

(continued)

Appendix II
Analysis of Implementation of
FASA Sections

FASA section	Section title	Synopsis
2251 (see 2201)	Authority to Examine Records of Contractors	Provides civilian agencies with records examination authority consistent with that of DOD, NASA, and the U.S. Coast Guard.
2301	Certification of Contract Claims	Sets out certification requirements for equitable adjustment requests exceeding the simplified acquisition threshold. Restricts legislative payment of claims.
2302	Shipbuilding Claims	Increases time period during which shipbuilding claims, requests for equitable adjustment, or demands for payment may be made from 18 months to 6 years.
2351	Contract Disputes Act Improvements	Sets out period for filing contractor claims against the government. Increases dollar threshold related to certain claim certification, decision and notification requirements, as well as access to accelerated and small claims procedures.
2352	Extension of Alternative Dispute Resolution Authority	Requires written explanation of rejection of request for alternative dispute resolution proceedings by contracting officer or contractor when other party has proposed use of proceedings. Extends statutory alternative dispute resolution authority until Oct. 1, 1999.
2353	Expedited Resolution of Contract Administration Matters	Requires contracting officers to make a reasonable effort to respond in 30 days to a written request related to a contract administration matter received from a small business concern. Does not create rights under the Contract Disputes Act.
2354	Authority for District Courts to Obtain Advisory Opinions from Boards of Contract Appeals in Certain Cases	Authorizes a district court to request advisory opinions from boards of contract appeals on issues that could be the proper subject of a final decision of a contracting officer appealable under the Contract Disputes Act. Requires that advisory opinions be provided in a "timely manner."

**Appendix II
Analysis of Implementation of
FASA Sections**

Implementation				
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
60 Fed. Reg. 42649 (Aug. 16, 1995)				
FAR, 48 C.F.R. 1.106; 4.702; 4.703; 4.706 (removed and reserved); 4.706-1—4.706-3 (removed); 15.106-1; 15.805-5; 25.000; 25.901; 50.307; 52.214-26; 52.215-1 (removed and reserved); 52.215-2	60 Fed. Reg. 48224 (Sept. 18, 1995)		60 Fed. Reg. 56972 (Nov. 13, 1995) (Proposed rule)	
	FAR, 48 C.F.R. 50.303-2		DFARS, 48 C.F.R. 233.70 (removed); 233.205; 250.102; 252.233-7000 (removed)	
				No action required. ^c
60 Fed. Reg. 17023 (Apr. 4, 1995)	60 Fed. Reg. 48224 (Sept. 18, 1995)			
GSBCA Rules, 48 C.F.R. Part 6101	FAR, 48 C.F.R. 33.201; 33.206-33.208; 33.211; 52.233-1			
	60 Fed. Reg. 48224 (Sept. 18, 1995)			
	FAR, 48 C.F.R. 33.201; 33.214; 52.233-1			
	60 Fed. Reg. 48224 (Sept. 18, 1995)			
	FAR, 48 C.F.R. 42.1601			
				Boards of contract appeals will handle requests case by case.

(continued)

**Appendix II
Analysis of Implementation of
FASA Sections**

FASA section	Section title	Synopsis
2401	Clarification of Provision Relating to Quality Control of Certain Spare Parts	Establishes that qualification requirements will be those used to qualify original production parts unless the Secretary of Defense determines in writing that similar requirements may be used or that the original requirements are unnecessary.
2402	Contractor Guarantees Regarding Weapon Systems	Requires DOD to establish reasonable and cost-effective guidelines for negotiating weapon system guarantees and guidelines for waivers. Eliminates report to Congress on waivers.
2451	Section 3737 of the Revised Statutes: Expansion of Authority to Prohibit Setoffs Against Assignees; Reorganization of Section; Revision of Obsolete Provisions	Continues authorities for contractors to assign payments of \$1,000 or more to financial institutions. Authorizes President to determine that payments to assignees shall not be subject to reductions or setoffs.
2452	Repeal of Requirement for Deposit of Contracts With GAO	Repeals section 3743 of the Revised Statutes (41 U.S.C. 20).
2453	Repeal of Obsolete Deadline Regarding Procedural Regulations for the Cost Accounting Standards Board	Amends section 26 of the OFPP Act (41 U.S.C. 422).
2454	Codification of Accounting Requirement for Contracted Advisory and Assistance Services	Requires the Director of the Office of Management and Budget (OMB) to establish funding for advisory and assistance services as a separate object class in budgets submitted to Congress. Defines "advisory and assistance services."
2455	Uniform Suspension and Debarment	Provides for the reciprocal governmentwide effect of all agency suspension and debarment actions. Authorizes exceptions on a limited basis.
3001	Weapon Development and Procurement Schedules	Restructures provisions related to weapon development and procurement schedules.

**Appendix II
Analysis of Implementation of
FASA Sections**

Implementation				
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
		60 Fed. Reg. 40146 (Aug. 7, 1995)		
		DFARS, 48 C.F.R. 209.206-70		
		60 Fed. Reg. 40146 (Aug. 7, 1995)		
		61 Fed. Reg. 7739 (Feb. 29, 1996) (Converted to a final rule.)		
		DFARS, 48 C.F.R. 246.770-2; 246.770-8		
	60 Fed. Reg. 49729 (Sept. 26, 1995)			
	FAR, 48 C.F.R. 32.8			
				Technical change.
				Technical change.
	60 Fed. Reg. 49720 (Sept. 26, 1995)		See also requirements for preparation of the 1997 budget published in OMB Circular A-11, dated June 6, 1995.	
	FAR, 48 C.F.R. 37.2			
60 Fed. Reg. 33064 (June 26, 1995)				
FAR, 48 C.F.R. 9.401; 9.403				
				Requirements for preparation of DOD's 1996/1997 budget issued by Deputy Comptroller (Program/Budget) memorandum, dated Jan. 5, 1995.

(continued)

**Appendix II
Analysis of Implementation of
FASA Sections**

FASA section	Section title	Synopsis
3002	Selected Acquisition Report Requirement	Reorganizes requirements related to selected acquisition reports.
3003	Unit Cost Report Requirement	Reorganizes requirements related to unit cost reports.
3004	Requirement for Independent Cost Estimate and Manpower Estimate Before Development or Production	Requires the Secretary of Defense to prescribe regulations governing the content and submission of life-cycle costs and manpower estimates related to major defense acquisition programs.
3005	Baseline Description	Eliminates prescriptive requirements and substitutes general guidance for establishing baseline descriptions. Eliminates statutory procedures for deviation reporting. Requires the Secretary of Defense to prescribe regulations governing such procedures.
3006	Repeal of Requirement for Competitive Prototyping for Major Programs	Repeals 10 U.S.C. 2438.
3007 (see 3006)	Repeal of Requirement for Competitive Alternative Sources for Major Programs	Repeals 10 U.S.C. 2439.
3011	Authority of Director of Operational Test and Evaluation to Communicate Views Directly to Secretary of Defense	Allows communication of views by the Director of Operational Test and Evaluation without the approval or concurrence of any other official within DOD.

**Appendix II
Analysis of Implementation of
FASA Sections**

Implementation				
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
				Revisions to DOD guidance on preparation of 1996 selected acquisition reports in DOD Manual 5000.2-M (Part 17) issued by Director, Acquisition Program Integration, memorandum dated Jan. 3, 1995.
				Supplementary DOD guidance on preparation of unit cost reports issued by Director, Acquisition Program Integration, memorandum dated Feb. 3, 1995.
				DOD determination that requirements were already contained in DOD Directives 5000.1 and 5000.4 and DOD Instruction 5000.2.
				Revisions to DOD guidance on acquisition program baseline requirements issued by Under Secretary of Defense, Acquisition and Technology, memorandum dated Sept. 27, 1995.
60 Fed. Reg. 29491 (June 5, 1995)			Revisions to DOD Instruction 5000.2, DOD 5000.2-M, and DFARS 207.105, to reflect repeal, were directed by Under Secretary of Defense, Acquisition and Technology, memorandum dated May 4, 1995.	
DFARS, 48 C.F.R. 207.105				Revisions to DOD Instruction 5000.2 and DOD 5000.2-M, to reflect repeal, were directed by Under Secretary of Defense, Acquisition and Technology, memorandum dated May 4, 1995.
				DOD determination that no revisions to DOD guidance were needed.

(continued)

Appendix II
Analysis of Implementation of
FASA Sections

FASA section	Section title	Synopsis
3012	Responsibility of Director of Operational Test and Evaluation for Live Fire Testing	Transfers responsibility for monitoring and reviewing DOD's live fire testing activities to the Director of Operational Test and Evaluation and requires inclusion of these activities in the Director's annual report.
3013	Requirement for Unclassified Version of Annual Report on Operational Test and Evaluation	Requires submission of unclassified as well as classified version of annual reports submitted to Congress on operational test and evaluation.
3014	Survivability and Lethality Testing	Authorizes the Secretary of Defense to waive survivability and lethality tests before full-scale production of major systems and munitions programs, if the Secretary of Defense certifies to Congress that the testing would be unreasonably expensive or impractical.
3015	Limitation on Quantities to Be Procured for Low-Rate Initial Production	Generally restricts low-rate initial production quantities to 10 percent of the total number to be produced as determined at milestone II, unless the Secretary of Defense explains why a greater quantity is necessary.
3021	Gratuitous Services of Officers of Certain Reserve Components	Authorizes the Secretary of Defense to accept the gratuitous services of officers of certain reserve components to consult on matters relating to the armed forces.
3022	Authority to Rent Samples, Drawings, and Other Information to Others	Adds clarifying language related to DOD authority to sell and rent manufacturing information, equipment, materials, and services.
3023	Repeal of Application of Public Contracts Act to Certain Naval Vessel Contracts	Repeals application of the Walsh-Healey Act to naval vessel construction contracts.
3024	Repeal of Requirement for Construction of Vessels on Pacific Coast	Repeals statutory requirements mandating construction of certain naval vessels on the Pacific Coast.
3025	Scientific Investigation and Research for the Navy	Repeals statutory provision related to the authority of the Secretary of the Navy to make expenditures for scientific investigations and research.
3031	Definitions	Sets out various definitional changes to statutory provisions governing the Civil Reserve Air Fleet.

Appendix II
Analysis of Implementation of
FASA Sections

Implementation				
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
				Transfer of live fire test program resources by Deputy Secretary of Defense approval of action memorandum of Director of Operational Test and Evaluation, dated Jan. 3, 1995.
				DOD determination that no revisions to DOD guidance were needed.
				Revisions to DOD guidance on survivability and lethality testing issued by Deputy Secretary of Defense memorandum dated June 26, 1995.
				Revisions to DOD guidance on quantities to be procured for low-rate initial production issued by Under Secretary of Defense, Acquisition and Technology, memorandum dated Apr. 14, 1995.
				DOD determination that no revisions to DOD guidance would be needed.
				Revisions to DOD guidance being developed.
				No action required. ^c
				No action required. ^c
				DOD determination that no revisions to DOD guidance would be needed.
			60 Fed. Reg. 56972 (Nov. 13, 1995) (Proposed rule)	
			DFARS, 48 C.F.R. 247.70	

(continued)

**Appendix II
Analysis of Implementation of
FASA Sections**

FASA section	Section title	Synopsis
3032	Consolidation of Provisions Relating to Contractual Commitment of Aircraft	Sets out various streamlining changes to statutory provisions governing the Civil Reserve Air Fleet.
3033	Use of Military Installations by Contractors	Authorizes the Secretary of the Air Force to allow use of military installations by Civil Reserve Air Fleet contractors. Payments collected from such contractors must be credited to the appropriation of the armed forces with jurisdiction over the military installation.
3061	Regulations on Procurement, Production, Warehousing, and Supply Distribution Functions	Authorizes the Secretary of Defense to prescribe regulations governing the performance of procurement, production, warehousing and supply distribution, and related functions.
3062	Repeal of Requirements Regarding Product Evaluation Activities	Repeals statutory provisions related to the supervision and coordination of product evaluation activities within DOD.
3063	Department of Defense Acquisition of Intellectual Property Rights	Updates legal terminology in area of intellectual property. Authorizes use of military department funds to acquire releases for the unauthorized use of technical data or computer software. Allows settlement of patent infringement matters before claimant suits are brought.
3064	Liquid Fuels and Natural Gas: Contracts for Storage, Handling, or Distribution	Changes wording in statutory provision governing contracts for storage, handling, or distribution of liquid fuels or natural gas.
3065	Codification and Revision of Limitation on Lease of Vessels, Aircraft, and Vehicles	Codifies limits on leases of vessels, aircraft, and vehicles by the Secretary of Defense or the secretary of a military department. The Secretary of Defense must make a written determination if the contract length is 18 months or more.

**Appendix II
Analysis of Implementation of
FASA Sections**

Implementation				
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
			60 Fed. Reg. 56972 (Nov. 13, 1995) (Proposed rule)	
			DFARS, 48 C.F.R. 247.70	
			60 Fed. Reg. 56972 (Nov. 13, 1995) (Proposed rule)	
			DFARS, 48 C.F.R. 247.70	
			See also DOD Instruction 4500.55 on Civil Reserve Air Fleet (CRAF) Carrier Commercial Access to Military Installations for Non-DOD Operations, dated Oct. 25, 1995.	
				Technical change.
				DOD determination that no revisions to DOD guidance would be needed.
				See DFARS Part 227. ^c
				Technical change.
			60 Fed. Reg. 40106 (Aug. 7, 1995) (Interim rule); 60 Fed. Reg. 61586 (Nov. 30, 1995) (Converted to a final rule without change.)	
			DFARS, 48 C.F.R. 207.470	

(continued)

**Appendix II
Analysis of Implementation of
FASA Sections**

FASA section	Section title	Synopsis
3066	Soft Drink Supplies	Allows the federal government to purchase soft drinks manufactured in the United States from military exchange stores located outside the country, provided the soft drinks will be used outside the United States.
3067	Disbursement of Funds of Military Department to Cover Obligations of Another Agency of Department of Defense	Clarifies statutory provision related to the designation of DOD disbursing officers.
4001 (see 4003)	Simplified Acquisition Threshold Defined	Establishes simplified acquisition threshold of \$100,000 in the OFPP Act.
4002 (see 4003)	Establishment of Simplified Acquisition Threshold for Armed Services	Applies OFPP Act simplified acquisition threshold definition to DOD, NASA, and the U.S. Coast Guard.
4003 (see 4001-4002)	Establishment of Simplified Acquisition Threshold for Civilian Agencies	Applies OFPP Act simplified acquisition threshold definition to civilian agencies.
4004	Small Business Reservation	Reserves procurements above \$2,500 and not greater than \$100,000 for small businesses, unless the contracting officer is unable to obtain offers from two or more small business concerns competitive with market price, quality, and delivery.
4101	List of Inapplicable Laws in Federal Acquisition Regulation	Requires that the FAR contain a list of laws that are inapplicable to contracts or subcontracts not greater than the simplified acquisition threshold. Provides that future laws relating to procurements will be included on the list unless (1) the FAR Council specifically excludes them, (2) laws' terms exclude them, or (3) laws provide for civil or criminal penalties.

**Appendix II
Analysis of Implementation of
FASA Sections**

Implementation				
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
			60 Fed. Reg. 40106 (Aug. 7, 1995) (Interim rule); 60 Fed. Reg. 61586 (Nov. 30, 1995) (Converted to a final rule without change.) DFARS, 48 C.F.R. 206.302-5	
				DOD determination that no changes to previous implementation of the provision would be needed.
			60 Fed. Reg. 34741 (July 3, 1995) (Interim rule) FAR, 48 C.F.R. 13.101	
			60 Fed. Reg. 34741 (July 3, 1995) (Interim rule) FAR, 48 C.F.R. 13.101	
			60 Fed. Reg. 34741 (July 3, 1995) (Interim rule) FAR, 48 C.F.R. 13.101	
			60 Fed. Reg. 34741 (July 3, 1995) (Interim rule) FAR, 48 C.F.R. 19.502-2	
			60 Fed. Reg. 34741 (July 3, 1995) (Interim rule) FAR, 48 C.F.R. 13.110	

(continued)

**Appendix II
Analysis of Implementation of
FASA Sections**

FASA section	Section title	Synopsis
4102 (see 4104)	Armed Services Acquisitions	Cross-references FAR listing of statutes under section 4101 to DOD, NASA, and U.S. Coast Guard acquisitions. Lists laws directly inapplicable to acquisitions not greater than the simplified acquisition threshold.
4103 (see 4104)	Civilian Agency Acquisitions	Cross-references FAR listing of statutes under section 4101 to civilian agency acquisitions. Lists laws directly inapplicable to acquisitions not greater than the simplified acquisition threshold.
4104 (except (b)(2)) (see 4102-4103)	Acquisitions Generally	Lists laws directly inapplicable to acquisitions not greater than the simplified acquisition threshold.
4104(b)(2)	Alternatives to Payment Bonds as Payment Protections for Suppliers of Labor and Materials	Requires inclusion in the FAR of alternatives to payment bonds for suppliers of labor and materials under construction contracts between \$25,000 and \$100,000. Requires contracting officers to select from these payment protections and specify which are used when soliciting offers.
4201	Simplified Acquisition Procedures	Provides for special simplified procedures for acquisitions not greater than the simplified acquisition threshold. Prohibits division of requirements and promotes competition. Ties use of simplified procedures to achievement of various levels of Federal Acquisition Computer Network (FACNET) capability over time. Requires executive agencies to provide potential offerors reasonable opportunity to respond to solicitations.
4202	Procurement Notice	Requires publication of a notice in the Commerce Business Daily 15 days before solicitation for procurements over \$25,000, if contracting activity is not FACNET-certified. Sets out that deadlines for submission of bids or proposals are only applicable to contracts greater than the simplified acquisition threshold. Requires notice to describe award procedure and response time period for contracts above \$25,000 and below the simplified acquisition threshold.
4203	Implementation of Simplified Acquisition Procedures	Provides for implementation of simplified acquisition procedures in DOD, NASA, the U.S. Coast Guard, and civilian agencies.

**Appendix II
Analysis of Implementation of
FASA Sections**

Implementation				
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
60 Fed. Reg. 42649 (Aug. 16, 1995)			60 Fed. Reg. 34741 (July 3, 1995) (Interim rule)	
FAR, 48 C.F.R. 14.201-7;15.106-1			FAR, 48 C.F.R. 13.110	
60 Fed. Reg. 42649 (Aug. 16, 1995)			60 Fed. Reg. 34741 (July 3, 1995) (Interim rule)	
FAR, 48 C.F.R. 14.201-7; 15.106-1			FAR, 48 C.F.R. 13.110	
			60 Fed. Reg. 34741 (July 3, 1995) (Interim rule)	
			FAR, 48 C.F.R. 13.110	
			FAR, 48 C.F.R. 28.1; 28.2; 52.228-13 (FAR Case 95-301). Publication of an interim rule was pending in the spring of 1996, according to GSA officials.	
			60 Fed. Reg. 34741 (July 3, 1995) (Interim rule)	
			FAR, 48 C.F.R. 5.202; 5.203; Part 13	
			60 Fed. Reg. 34741 (July 3, 1995) (Interim rule)	
			FAR, 48 C.F.R. 5.101; 5.202; 5.203; 5.205; 5.207; 5.301	
			60 Fed. Reg. 34741 (July 3, 1995) (Interim rule)	
			FAR, 48 C.F.R. Part 13	

(continued)

Appendix II
Analysis of Implementation of
FASA Sections

FASA section	Section title	Synopsis
4301	Procedures for Purchases Below Micro-Purchase Threshold	Establishes micropurchase threshold at \$2,500 and below. Provides that purchases under threshold are not subject to Small Business Act reservation requirements or the Buy American Act. Does not require the securing of competitive quotations. Sets out that employees making micropurchases are not considered procurement officers under the OFPP Act.
4401 (see 4402)	Armed Services Acquisitions	Sets out conforming amendments for DOD, NASA, and U.S. Coast Guard acquisitions concerning the simplified acquisition threshold.
4402 (see 4401)	Civilian Agency Acquisitions	Sets out conforming amendments for civilian agency acquisitions concerning the simplified acquisition threshold. Requires GSA regulations that provide special procedures for leases where annual rent is not greater than the simplified acquisition threshold.
4403 (see 4201)	Office of Federal Procurement Policy Act	Sets out conforming amendments to the OFPP Act concerning the simplified acquisition threshold.
4404	Small Business Act	Sets out conforming amendments to the Small Business Act concerning the simplified acquisition threshold.

**Appendix II
Analysis of Implementation of
FASA Sections**

		Implementation		
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
			60 Fed. Reg. 64786 (Dec. 15, 1994) (Interim rule)	
			FAR, 48 C.F.R. 1.603-3; 3.104-4; 4.800; 13.101; 13.105; 13.106; 13.502; 13.6; 25.100	
			60 Fed. Reg. 34741 (July 3, 1995) (Interim rule)	
			FAR, 48 C.F.R. 13.1	
60 Fed. Reg. 42793 (Aug. 17, 1995)			60 Fed. Reg. 34741 (July 3, 1995) (Interim rule)	
General Services Administration Acquisition Regulation, 48 C.F.R. Part 570			FAR, 48 C.F.R. 13.1	
			60 Fed. Reg. 34741 (July 3, 1995) (Interim rule)	
			FAR, 48 C.F.R. 13.101	
			60 Fed. Reg. 34741 (July 3, 1995) (Interim rule)	
			FAR, 48 C.F.R. 13.101; 19.708	

(continued)

Appendix II
Analysis of Implementation of
FASA Sections

FASA section	Section title	Synopsis
5001 (see 5051)	Performance Based Management	Requires the Secretary of Defense to review major and nonmajor acquisition programs to assess whether they are achieving, on average, 90 percent of cost, performance, and schedule goals. Requires the Secretary of Defense to include information on achievement of these goals and on technology insertion in annual reports to Congress. Requires the development of enhanced system of performance incentives.
5002	Review of Acquisition Program Cycle	Requires the Secretary of Defense to review regulations to ensure that acquisition program cycle procedures are focused on achieving goals consistent with the program baseline descriptions required under 10 U.S.C. 2435. Repeals superseded acquisition program and workforce provisions in the 1994 Defense Authorization Act.
5051 (see 5001)	Performance Based Management	Requires heads of civilian agencies to approve or define cost, performance, and schedule goals for major acquisition programs. Requires that the OFPP Administrator will include information on achievement of these goals in annual reports to Congress. Requires developing enhanced system of performance incentives.
5052	Results-Oriented Acquisition Process	Requires the OFPP Administrator, in consultation with appropriate federal agency heads, to develop results-oriented acquisition process guidelines for acquisitions of property and services.

**Appendix II
Analysis of Implementation of
FASA Sections**

Implementation				
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
				DOD guidance on performance-based management implementation issued by Under Secretary of Defense, Acquisition and Technology, memorandum dated Sept. 27, 1995.
				Logistics Management Institute study identified characteristics of a successful incentive system for program management teams.
				Revisions to DOD guidance on acquisition oversight and review process issued by Under Secretary of Defense, Acquisition and Technology, memorandum dated Apr. 28, 1995.
				OMB Bulletin No. 95-03, Planning and Budgeting for the Acquisition of Fixed Assets, dated June 27, 1995.
				Letter providing status information from Administrator, OFPP, to Chairman of Senate Committee on Governmental Affairs, dated Oct. 11, 1995.
				Other actions to implement this provision are in progress.
				Report by Procurement Executives' Working Group of President's Management Council Procurement Task Force and guidance regarding procurement performance measures provided to executive departments and agencies by Director, OMB, memorandum dated May 7, 1996.

(continued)

**Appendix II
Analysis of Implementation of
FASA Sections**

FASA section	Section title	Synopsis
5061	OFPP Test Program for Executive Agencies	Authorizes the OFPP Administrator to conduct a program of no more than six tests of alternative and innovative procurement procedures and allows a waiver of specified laws and regulations. Sets out that no more than one test will be conducted under this authority at one agency. Makes agency participation conditional on certification of full FACNET electronic commerce capability.
5062	NASA Mid-Range Procurement Test Program	Authorizes the NASA Administrator to test alternative notice and publication requirements for acquisitions valued at \$500,000 or less. Allows for waiver of procurement regulations with the approval of the OFPP Administrator.
5063	Federal Aviation Administration Acquisition Pilot Program	Authorizes the Secretary of Transportation to conduct a test of alternative and innovative procurement procedures for one of the modernization programs under the Airway Capital Investment Plan.
5064	Department of Defense Acquisition Pilot Programs	Establishes procedures for using pilot program authority under the 1991 Defense Authorization Act for five programs authorized by the 1995 National Defense Authorization Act. Allows specified waivers of regulations and laws.
5091	Vendor and Employee Excellence Awards	Authorizes the OFPP Administrator to establish awards for vendor and employee excellence.
5092	Waiting Period for Significant Changes Proposed for Acquisition Regulations	Requires increased standard waiting period before the effective date of significant proposed changes to acquisition regulations from 30 days to 60 days.
5093	Sense of Congress on Negotiated Rulemaking	Sets out sense of Congress that the FAR Council should consider using negotiated rule-making procedures in the prescription of acquisition regulations.
6001	Post-Employment Rules	Repeals 3-year restriction on payment to retired regular officers. Suspends 2-year restrictions on retired military officers through December 31, 1996.

**Appendix II
Analysis of Implementation of
FASA Sections**

Implementation				
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
			Section 4302 of Public Law 104-106 removes the condition placed on OFPP authority to conduct test programs that a federal agency first must certify full FACNET electronic commerce capability.	In response to removal of condition on authority, OFPP plans to solicit recommendations for tests from federal agencies, according to an OFPP official.
				Internet is the only source of NASA synopses and solicitations within its Mid-Range program to test a simplified approach to lower dollar value contracts, effective Oct. 1, 1995.
				Test of alternative and innovative procurement procedures resulted in contract award in August 1995.
				DOD guidance implementing defense acquisition pilot programs issued by Under Secretary of Defense, Acquisition and Technology, memorandum dated Dec. 15, 1994.
				Implementation of excellence awards is being planned, according to an OFPP official.
				In 1991, defense and civilian regulatory councils adopted 60-day waiting periods before revisions to the FAR are effective.
				No action required. ^b

60 Fed. Reg. 20029
(Apr. 24, 1995)

Standards of Conduct
and Joint Ethics
Regulation,
32 C.F.R. 84.33

(continued)

Appendix II
Analysis of Implementation of
FASA Sections

FASA section	Section title	Synopsis
6002	Contracting Functions Performed by Federal Personnel	Restricts the use of consultants to carry out evaluations or analyses of acquisition proposals when qualified federal personnel are available to carry out this function.
6003	Repeal of Executed Requirement for Study and Report	Repeals statutory requirement for study already executed by OFPP Administrator on extent of competition in award of subcontracts by federal prime contractors.
6004	Interests of Members of Congress	Repeals requirement that "every contract or agreement" express condition that certain officials shall not benefit from that contract or agreement.
6005 (see 6006)	Whistleblower Protections for Contractor Employees of Department of Defense, Coast Guard, and National Aeronautics and Space Administration	Combines two existing whistleblower provisions of DOD, NASA, and the U.S. Coast Guard to provide protection to contractor employees.
6006 (see 6005)	Whistleblower Protections for Contractor Employees of Civilian Agencies	Provides the same whistleblower protection for employees of civilian agency contractors that is provided for contractor employees of DOD, NASA, and the U.S. Coast Guard.
6007	Comptroller General Review of the Provision of Legal Advice for Inspectors General	Requires Comptroller General to review the independence of the legal services being provided to inspectors general appointed under the Inspector General Act of 1978 and to report on the results of the review to Congress.
6008	Cost Savings for Official Travel	Requires the GSA Administrator to issue guidelines ensuring that agencies promote, encourage, and facilitate the use of frequent traveler programs by federal employees to maximize cost savings for official travel and report to Congress not later than 1 year after FASA's enactment.

**Appendix II
Analysis of Implementation of
FASA Sections**

Implementation				
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
	60 Fed. Reg. 49720 (Sept. 26, 1995)			
	FAR, 48 C.F.R. 7.103; 37.2			
				Technical change.
60 Fed. Reg. 37773 (July 21, 1995)				
FAR, 48 C.F.R. 3.102 (removed and reserved); 3.102-1—3.102-2 (removed); 49.603-1; 49.603-2; 49.603-3; 49.603-4; 52.203-1 (removed and reserved)				
60 Fed. Reg. 37774 (July 21, 1995)				
FAR, 48 C.F.R. 3.9				
60 Fed. Reg. 37774 (July 21, 1995)				
FAR, 48 C.F.R. 3.9				
				GAO issued Inspectors General: Independence of Legal Services Provided to IGs (GAO/OGC-95-15, Mar. 1, 1995).
				GSA Bulletin FTR 17, dated Oct. 24, 1995, issued to heads of federal agencies, on promoting, encouraging, and facilitating federal employee use of frequent traveler programs and benefits (60 Fed. Reg. 55583, Nov. 1, 1995).
				Report by GSA Administrator, dated Oct. 13, 1995, sent to Congress.

(continued)

Appendix II
Analysis of Implementation of
FASA Sections

FASA section	Section title	Synopsis
6009	Prompt Resolution of Audit Recommendations	Requires federal agencies to promptly resolve or take corrective action on Office of Inspector General audit report findings within 6 months.
7101	Repeal of Certain Requirements	Repeals Small Business Act provision governing priority of labor surplus area firms in small business set-asides. Repeals provision of P.L. 102-484, which concerned notification of offerors of certificate of competency requirements under 15 U.S.C. 637(b)(7).
7102	Contracting Program for Certain Small Business Concerns	Authorizes for federal agencies certain contracting programs for small businesses owned and controlled by socially and economically disadvantaged individuals. These programs could include competition restrictions and a price evaluation preference of not more than 10 percent when evaluating qualifying offers received as a result of an unrestricted solicitation. Program authority terminates on September 30, 2000.
7103	Extension of Test Program for Negotiation of Comprehensive Small Business Subcontracting Plans	Extends DOD test program for negotiation of comprehensive small business subcontracting plans through September 30, 1998.
7104	Small Business Procurement Advisory Council	Established the Small Business Procurement Advisory Council to develop positions on proposed procurement regulations affecting the small business community and to submit comments reflecting such positions to appropriate regulatory authorities.

**Appendix II
Analysis of Implementation of
FASA Sections**

Implementation				
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
			Section 810 of Public Law 104-106 amended FASA section 6009 to conform to reporting requirements of the Inspector General Act of 1978. Final action on inspector general reports is to be completed within 12 months.	Action to revise OMB Circular A-50 was delayed pending amendment to FASA section 6009, according to an OMB official.
	60 Fed. Reg. 48258 (Sept. 18, 1995) FAR, 48 C.F.R. Part 20 (removed and reserved); 52.220-1 (redesignated as 52.219-2 and revised); 52.220-2—52.220-4 (removed) and conforming amendments throughout the FAR.		60 Fed. Reg. 40106 (Aug. 7, 1995) (Interim rule); 60 Fed. Reg. 61586 (Nov. 30, 1995) (Converted to a final rule without change.) DFARS, 48 C.F.R. 219.602-1; 219.602-70 (removed); 252.219-7009 (removed)	
			FAR implementation delayed pending review of federal affirmative action programs following the <u>Adarand</u> Supreme Court decision. ^d	
60 Fed. Reg. 35668 (July 10, 1995) DFARS, 48 C.F.R. 219.702; 252.219-7004				The Small Business Procurement Advisory Council held its initial meeting on Dec. 15, 1994.

(continued)

Appendix II
Analysis of Implementation of
FASA Sections

FASA section	Section title	Synopsis
7105	Extension of Defense Contract Goal to Coast Guard and National Aeronautics and Space Administration	Extends contract goals for small disadvantaged businesses and certain institutions of higher education to NASA and the U.S. Coast Guard.
7106	Procurement Goals for Small Business Concerns Owned by Women	Establishes 5-percent target procurement goals for small businesses owned by women.
7107	Development of Definitions Regarding Certain Small Business Concerns	Requires OFPP Administrator to identify provisions of federal law that define or describe certain small or minority business concerns and to recommend uniform definitions and certification standards.

**Appendix II
Analysis of Implementation of
FASA Sections**

Implementation				
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
			Implementation in DFARS and in NASA and Coast Guard (Department of Transportation) regulations delayed pending review of federal affirmative action programs following the <u>Adarand</u> Supreme Court decision. ^d	
	60 Fed. Reg. 48258 (Sept. 18, 1995)			
	FAR, 48 C.F.R. 5.002; 5.207; 5.503; 9.104-3; 14.205-1; 14.205-4; 15.705; 15.706; 15.905-1; 19.001; 19.201; 19.202-5; 19.301; 19.402; 19.7; 19.9 (removed and reserved); 26.104; 42.302; 42.501; 42.502; 44.202-2; 44.303; 52.219-1; 52.219-8; 52.219-9; 52.219-10; 52.219-13 (removed and reserved); 52.219-16; 53.219			
				OFPP met with organizations and companies to discuss the review and published a request for comments from the public on developing uniform definitions and a uniform certification system. See 60 Fed. Reg. 456 (Jan. 4, 1995).

(continued)

**Appendix II
Analysis of Implementation of
FASA Sections**

FASA section	Section title	Synopsis
7108	Functions of Office of Federal Procurement Policy Relating to Small Business	Requires OFPP Administrator to develop policies to ensure that small businesses and small disadvantaged businesses are provided the maximum practicable opportunity to participate in procurements below the simplified acquisition threshold and to provide for education and training.
7201	Acquisitions Generally	Amends Walsh-Healey Act to delete requirement that contractors certify that they are either manufacturers or regular dealers in items supplied. Authorizes the Secretary of Labor to define by regulation the terms "regular dealer" and "manufacturer."
7202	Prohibition on Use of Funds for Documenting Economic or Employment Impact of Certain Acquisition Programs	Codifies prohibition on the use of appropriated funds to assist DOD contractors in the preparation of materials, reports, lists, or analyses of the economic effect of acquisition programs in specific states or congressional districts.
7203	Merit-Based Award of Contracts and Grants	Sets out statement of congressional policy that no legislation should be enacted that requires a procurement to be made from a specified nonfederal government source.
7204	Maximum Practicable Opportunities for Apprentices on Federal Construction Projects	Sets out the sense of Congress provision stating that contractors performing federal construction contracts should, to the maximum extent practicable, select subcontractors participating in apprenticeship programs and should provide maximum practicable employment opportunities for participants or graduates of such programs.
7205	Repeal of Obsolete Provision	Repeals section 308 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 258).
7206	Repeal of Obsolete and Redundant Provisions of Law	Repeals policy guidance and reporting requirements of the Buy American Act (41 U.S.C. 10b-1(g) and 41 U.S.C. 10b-2(b)). Repeals waiver study requirement under the Trade Agreements Act (19 U.S.C. 2516).
7301	Short Title	Sets out that subtitle C of title VII of FASA may be cited as the "Community Improvement Volunteer Act of 1994." (Long title is "Waiver of Application of Prevailing Wage-Setting Requirements to Volunteers.")

**Appendix II
Analysis of Implementation of
FASA Sections**

Implementation				
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
				OFPP published a proposed policy letter on subcontracting plans with a request for comments (60 Fed. Reg. 49644, Sept. 26, 1995). According to an OFPP official, training videos are being developed and expected to be available in May 1996.
				60 Fed. Reg. 46553 (Sept. 7, 1995) (Proposed rule)
				Department of Labor Regulations, 41 C.F.R. 50-201; 50-206
				Department of Labor is authorized to issue regulations but does not have to issue them.
			60 Fed. Reg. 53320 (Oct. 13, 1995) (Proposed rule)	
			DFARS, 48 C.F.R. 231.205-22	
60 Fed. Reg. 42652 (Aug. 16, 1995)				
FAR, 48 C.F.R. 6.302-5				
				Technical change.
				Technical change.
				Technical change.
			To be implemented in Department of Labor regulations.	

(continued)

Appendix II
Analysis of Implementation of
FASA Sections

FASA section	Section title	Synopsis
7302	Purpose	Sets out statement of purpose for the Community Improvement Volunteer Act of 1994.
7303	Waiver for Individuals Who Perform Volunteer Services for Public Entities	Waives application of prevailing wage-setting provisions of the Davis-Bacon Act to volunteers offering their services to public entities to assist in the construction, repair, or alteration of certain public buildings funded under specified federal programs.
7304	Waiver for Individuals Who Perform Volunteer Services for Nonprofit Entities	Waives application of prevailing wage-setting provisions of the Davis-Bacon Act to volunteers offering their services to nonprofit entities to assist in the construction, repair, or alteration of certain public buildings funded under specified federal programs.
7305	Contracts Affected	Applies Community Improvement Volunteer Act of 1994 to contracts entered into under the authority of certain specified statutes.
7306	Report	Requires the Secretary of Labor to prepare and submit to Congress a report on the use of volunteers in certain community activities involving private for-profit entities and current barriers to such use, including the Davis-Bacon Act.
8001	Definitions	Amends the OFPP Act to add definitions of "commercial item," "nondevelopmental item," "component," and "commercial component."
8002	Regulations on Acquisition of Commercial Items	Requires inclusion in FAR provisions covering uniform terms and conditions for commercial item acquisitions, market acceptance criteria, use of firm fixed-price contracts, contract quality requirements, and the treatment of transfers between affiliates.
8003	List of Inapplicable Laws in Federal Acquisition Regulation	Requires that the FAR include lists of laws that are inapplicable to contracts and subcontracts for commercial items. Sets out that future enacted laws will be included on the list unless the FAR Council specifically excludes them (not applicable to laws excluded by their terms or that provide for civil or criminal penalties).
8101	Establishment of New Chapter in Title 10	Establishes a separate chapter in title 10 of the <u>U.S. Code</u> relating to commercial items acquisitions.

**Appendix II
Analysis of Implementation of
FASA Sections**

		Implementation		
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
			To be implemented in Department of Labor regulations.	
			To be implemented in Department of Labor regulations.	
			To be implemented in Department of Labor regulations.	
			To be implemented in Department of Labor regulations.	
			To be implemented in Department of Labor regulations.	
	60 Fed. Reg. 48231 (Sept. 18, 1995)			
	FAR, 48 C.F.R. 2.101; 52.202-1			
	60 Fed. Reg. 48231 (Sept. 18, 1995)			
	FAR, 48 C.F.R. 11.103; 12.001; 12.2; 12.3; 12.4; 12.5; 16.201; 16.301-3; 44.4; 46.102; 46.202-1; 46.709; 52.212-3; 52.212-4; 52.212-5; 52.244-6			
	60 Fed. Reg. 48231 (Sept. 18, 1995)			
	FAR, 48 C.F.R. 12.301;12.5; 44.402; 52.244-6			
				Technical change.

(continued)

Appendix II
Analysis of Implementation of
FASA Sections

FASA section	Section title	Synopsis
8102 (see 8201)	Relationship to Other Provisions of Law	Incorporates by reference provisions on laws inapplicable to commercial items (see section 8003) and provisions on exceptions to cost or pricing data (see 10 U.S.C. 2306a(d)). Sets out that, unless specifically provided, no provision of title 10 relating to procurement is inapplicable to commercial items.
8103	Definitions	Cross-references commercial item definitions in new title 10 chapter (see section 8101) to commercial item definitions set out in the OFPP Act and clarifies that commercial item provisions are applicable to NASA and the U.S. Coast Guard.
8104 (see 8203)	Preference for Acquisition of Commercial Items	Creates a preference for the acquisition of commercial items and other nondevelopmental items, including both supplies and services. Sets out guidelines for conducting preliminary market research.
8105 (see 8204)	Inapplicability of Certain Provisions of Law	Lists laws directly inapplicable to contracts for acquisitions of commercial items.
8106	Presumption That Technical Data Under Contracts for Commercial Items Are Developed Exclusively at Private Expense	Adds presumption that, for the purposes of 10 U.S.C. 2320 (technical data) and 10 U.S.C. 2321 (validation of proprietary data restrictions), commercial items have been developed exclusively at private expense.
8201 (see 8102)	Relationship to Other Provisions of Law	Incorporates by reference provisions on laws inapplicable to commercial items (see section 8003). Sets out that unless specifically provided, no provision of title 41 relating to procurement is inapplicable to commercial items.

**Appendix II
Analysis of Implementation of
FASA Sections**

		Implementation		
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
	60 Fed. Reg. 48231 (Sept. 18, 1995) FAR, 48 C.F.R. 12.5			
	60 Fed. Reg. 48231 (Sept. 18, 1995) FAR, 48 C.F.R. 2.101; 52.202-1			
	60 Fed. Reg. 48231 (Sept. 18, 1995) FAR, 48 C.F.R. 7.102; 7.103; 10.001; 10.002; 11.002; 11.101; 12.101; 12.102; 12.202; 44.402; 52.244-6			
	60 Fed. Reg. 48272 (Sept. 18, 1995) FAR, 48 C.F.R. 28.106-4; 28.106-6; 32.1 60 Fed. Reg. 48231 (Sept. 18, 1995) FAR, 48 C.F.R. 3.404; 3.503-2; 12.503; 12.504; 52.203-6		60 Fed. Reg. 61586 (Nov. 30, 1995) (Interim rule) DFARS, 48 C.F.R. 212.503; 212.504	
60 Fed. Reg. 33464 (June 28, 1995) DFARS, 48 C.F.R. 227.7102; 252.227-7037	60 Fed. Reg. 48231 (Sept. 18, 1995) FAR, 48 C.F.R. 12.211		60 Fed. Reg. 61586 (Nov. 30, 1995) (Interim rule) DFARS 48 C.F.R. 252.227-7037	
	60 Fed. Reg. 48231 (Sept. 18, 1995) FAR, 48 C.F.R. 12.5			

(continued)

**Appendix II
Analysis of Implementation of
FASA Sections**

FASA section	Section title	Synopsis
8202	Definitions	Cross-references terms used to refer to commercial items in civilian agency acquisitions to definitions for these terms set out in the OFPP Act.
8203 (see 8104)	Preference for Acquisition of Commercial Items	Creates a preference for the acquisition of commercial items and other nondevelopmental items, including both supplies and services. Sets out guidelines for conducting preliminary market research.
8204 (see 8105)	Inapplicability of Certain Provisions of Law	Lists laws directly inapplicable to contracts for acquisitions of commercial items.
8301 (except (e))	Inapplicability of Certain Provisions of Law	Lists laws directly inapplicable to contracts for acquisitions of commercial items.
8301(e)	Inapplicability of Certain Provisions of Law	Excludes contractors competing for commercial item contracts from certain Procurement Integrity Act certification requirements.

**Appendix II
Analysis of Implementation of
FASA Sections**

Implementation				
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
	60 Fed. Reg. 48231 (Sept. 18, 1995)			
	FAR, 48 C.F.R. 2.101; 52.202-1			
	60 Fed. Reg. 48231 (Sept. 18, 1995)			
	FAR, 48 C.F.R. 7.102; 7.103; 10.001; 10.002; 11.002; 11.101; 12.101; 12.102; 12.202; 44.402; 52.244-6			
	60 Fed. Reg. 48231 (Sept. 18, 1995)			
	FAR, 48 C.F.R. 3.404; 3.503-2; 12.503; 12.504; 52.203-6			
	60 Fed. Reg. 48231 (Sept. 18, 1995)		In a memorandum dated Dec. 18, 1995, the Chairman of the Cost Accounting Standards Board notified federal procuring agencies that the Board delegated the authority to waive the application of cost accounting standards to individual firm fixed-price contracts for the acquisition of commercial items, when cost or pricing data is not obtained.	
	FAR, 48 C.F.R. 3.502-2; 3.502-3; 12.503; 12.504; 22.305; 23.104; 23.501; 47.405			
60 Fed. Reg. 37773 (July 21, 1995)				
FAR, 48 C.F.R. 3.104-9; 52.203-8; 52.203-9				

(continued)

Appendix II
Analysis of Implementation of
FASA Sections

FASA section	Section title	Synopsis
8302	Flexible Deadlines for Submission of Offers of Commercial Items	Requires OFPP Administrator to prescribe regulations defining limited circumstances in which flexible deadlines can be used under section 18 of the OFPP Act for submitting bids or proposals for the procurement of commercial items.
8303	Additional Responsibilities for Advocates for Competition	Gives the additional responsibilities of promoting the acquisition of commercial and nondevelopmental items, and challenging barriers to such acquisition, to competition advocates for each procuring activity.
8304	Provisions Not Affected	Lists certain provisions of law not affected by the commercial items provisions in title VIII of FASA, so that these laws continue to be applicable
8305	Comptroller General Review of Federal Government Use of Market Research	Requires the Comptroller General to report to Congress on the use of market research by the federal government in the support of procurement of commercial and nondevelopmental items.
9001-9004	Title IX—Federal Acquisition Computer Network	Sets out provisions outlining FACNET architecture and governmentwide implementation. Requires GAO to identify and report on classes of contracts unsuitable for acquisition through FACNET.
10001	Effective Date and Applicability	Sets out that amendments made by FASA would take effect on the date provided in final implementing regulations or October 1, 1995, whichever was earlier. Section 10001 also lists a series of sections immediately applicable on and after the date of FASA enactment.
10002	Implementing Regulations	Establishes schedule for promulgation of FASA implementing regulations.
10003	Evaluation by the Comptroller General	Requires Comptroller General to evaluate and report to Congress on the issuance and implementation of FASA regulations.
10004	Data Collection Through the Federal Procurement Data System	Specifies certain data to be collected through the Federal Procurement Data System for acquisitions in excess of the simplified acquisition threshold.
10005	Technical and Clerical Amendments	Sets out miscellaneous technical and clerical amendments to permanent laws affected by amendments made by FASA.

**Appendix II
Analysis of Implementation of
FASA Sections**

Implementation				
Final regulation published by September 8, 1995	Final regulation published by October 1, 1995	Proposed regulation published by October 1, 1995	Other	No regulatory implementation required
	60 Fed. Reg. 48231 (Sept. 18, 1995)			
	FAR, 48 C.F.R. 5.203; 12.205			
	60 Fed. Reg. 48231 (Sept. 18, 1995)			
	FAR, 48 C.F.R. 6.502			
				No action required. ^a
				GAO must submit report to Congress in 1996.
			60 Fed. Reg. 34741 (July 3, 1995) (Interim rule)	
			FAR, 48 C.F.R. 4.5	
			GAO must submit report to OFPP Administrator and Congress by 1997.	
				No action required. ^b
				No action required. ^b
				GAO must submit reports to Congress.
60 Fed. Reg. 42652 (Aug. 16, 1995)	60 Fed. Reg. 48258 (Sept. 18, 1995)		Federal Procurement Data System Reporting Manual issued in Oct. 1995. Manual was prepared by GSA for OFPP.	
FAR, 48 C.F.R. 4.601	48 C.F.R. 4.602; 4.603; 52.204-5			Technical change.

Appendix II
Analysis of Implementation of
FASA Sections

^aThis FASA section was assigned to a regulation drafting team by the FAR Council's special project to implement FASA for implementation in the FAR. The drafting team subsequently determined that no regulatory implementation action was required.

^bNo regulatory implementation action by any federal agency was required.

^cThis FASA section was assigned to a regulation drafting team by the FAR Council's special project to implement FASA for implementation in the Defense Federal Acquisition Regulation Supplement. The team subsequently determined that no regulatory implementation action was required.

^dThe Supreme Court's decision in Adarand Constructors, Inc. v. Peña, 115 S. Ct. 2097 (1995), set forth a new standard for evaluating the constitutionality of race-based affirmative action programs, and the President directed on July 19, 1995, that executive agencies review affirmative action programs under that standard.

Scope and Methodology

To determine whether all necessary regulations were issued, we first undertook a detailed reading of all FASA statutory provisions and legislative history. We obtained FASA implementation plans from the Federal Acquisition Regulatory Council and the Under Secretary of Defense (Acquisition and Technology) that were established specifically for promulgating FAR revisions and for defense-unique implementation. We discussed these plans with project managers and officials of the regulatory councils. We interviewed team leaders and team legal advisers responsible for FAR revisions to discuss the steps they took to determine regulatory coverage, and we reviewed the FAR drafting teams' methodology for identifying necessary revisions.

We documented that regulations were issued by extracting information from the Federal Register, and we analyzed in detail how FAR revisions were structured to implement each FASA section. In some instances, we conducted computerized key word searches of the Code of Federal Regulations to (1) determine whether coverage relating to a particular FASA section already existed and should be revised or (2) review regulatory drafting teams' determinations that FASA sections assigned to them did not require regulatory implementation. We followed up with the drafting teams to confirm our results. We followed similar steps for non-FAR regulations. In addition, we documented actions taken to implement FASA other than issuing regulations.

In addition to the above steps, we performed an in-depth legal review of seven of the FAR revisions that had public meetings. We reviewed the regulations and available drafting team reports to determine whether the regulations were consistent with the provisions and purposes of FASA and its legislative history and to identify the major issues that arose in the promulgation of the regulation.

To determine compliance with FASA's publishing deadlines and requirements for 60-day comment periods, we reviewed the Federal Register and documented publication dates for proposed, interim, and final regulations and the period allowed for submitting public comments.

We evaluated the executive branch efforts to ensure that the regulations are concise and easily understandable by potential offerors as well as by government officials.

We conducted our work between November 1994 and March 1996 in accordance with generally accepted government auditing standards. Since

the latest date that all of FASA's provisions were applicable to government acquisitions was October 1, 1995, we used that date for reporting on the status of implementing regulations. However, we included updates through March 1996. Although our report is due not later than 180 days after final revisions to the FAR have been issued, we are reporting based on the majority having been issued. Several final revisions to the FAR had not been published as of March 1996.

Ordering Information

The first copy of each GAO report and testimony is free. Additional copies are \$2 each. Orders should be sent to the following address, accompanied by a check or money order made out to the Superintendent of Documents, when necessary. VISA and MasterCard credit cards are accepted, also. Orders for 100 or more copies to be mailed to a single address are discounted 25 percent.

Orders by mail:

**U.S. General Accounting Office
P.O. Box 6015
Gaithersburg, MD 20884-6015**

or visit:

**Room 1100
700 4th St. NW (corner of 4th and G Sts. NW)
U.S. General Accounting Office
Washington, DC**

**Orders may also be placed by calling (202) 512-6000
or by using fax number (301) 258-4066, or TDD (301) 413-0006.**

Each day, GAO issues a list of newly available reports and testimony. To receive facsimile copies of the daily list or any list from the past 30 days, please call (202) 512-6000 using a touchtone phone. A recorded menu will provide information on how to obtain these lists.

For information on how to access GAO reports on the INTERNET, send an e-mail message with "info" in the body to:

info@www.gao.gov

or visit GAO's World Wide Web Home Page at:

<http://www.gao.gov>